

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

ILLINOIS-AMERICAN WATER COMPANY )  
 )  
 ) DOCKET NO.  
 Proposed general increase in water ) 11-0767  
 and sewer rates. (Tariffs filed )  
 October 27, 2011) )

# Springfield, Illinois

Wednesday, May 16, 2012

Met, pursuant to notice, at 9:00 a.m.

**BEFORE:**

MR. LARRY JONES, Administrative Law Judge

**APPEARANCES :**

ALBERT D. STURTEVANT  
MARK A. WHITT  
ANNE M. ZEHR  
WHITT STURTEVANT, LLP  
180 North LaSalle Street  
Suite 1822  
Chicago, Illinois 60601

(Appearing on behalf of  
Illinois-American Water Company)

SULLIVAN REPORTING COMPANY, by  
Laurel Patkes, Reporter  
CSR #084-001340

1       APPEARANCES: (CONT'D.)

2           JOHN J. REICHART  
3           KENNETH C. JONES  
4           Corporate Counsel  
5           727 Craig Road  
6           St. Louis, Missouri   63141

7                               (Appearing on behalf of  
8                               Illinois-American Water Company)

9           JAMES V. OLIVERO  
10          Office of General Counsel  
11          Illinois Commerce Commission  
12          527 East Capitol Avenue  
13          Springfield, Illinois   62701

14                              (Appearing on behalf of the  
15                              staff witnesses of the Illinois  
16                              Commerce Commission)

17          MICHAEL J. LANNON  
18          NICOLE T. LUCKEY (via videoconference)  
19          Office of General Counsel  
20          Illinois Commerce Commission  
21          160 North LaSalle Street, Suite C-800  
22          Chicago, Illinois 60601-3104

23                              (Appearing on behalf of the  
24                              staff witnesses of the Illinois  
25                              Commerce Commission)

26          SUSAN L. SATTER  
27          TIMOTHY O'BRIEN  
28          Illinois Attorney General's Office  
29          11th Floor  
30          100 West Randolph  
31          Chicago, Illinois 60601

32                              (Appearing on behalf of the  
33                              People of the State of Illinois)

34

1       APPEARANCES:   (CONT'D.)

2           RYAN ROBERTSON  
3           LUEDERS ROBERTSON & KONZEN  
4           1939 Delmar Avenue  
5           Granite City, Illinois   62040

6                                (Appearing on behalf of the  
7                                Illinois Industrial Water  
8                                Consumers)

9           RICHARD C. BALOUGH  
10          CHERYL DANCEY BALOUGH  
11          BALOUGH LAW OFFICES, LLC  
12          1 North LaSalle Street  
13          Suite 1910  
14          Chicago, Illinois   60602

15                               (Appearing on behalf of the  
16                                Cities of Champaign & Urbana and  
17                                the Villages of Savoy,  
18                                St. Joseph, Sidney & Philo)

19          JEFFREY M. ALPERIN  
20          TRESSLER, LLP  
21          305 W. Briarcliff Rd.  
22          Bolingbrook, Illinois   60440

                              (Appearing on behalf of Village  
                              of Bolingbrook)

          SAMUEL T. MILLER  
          USAF Utility Law Field Support Center  
          139 Barnes Ave.  
          Suite 1  
          Tyndall AFB, Florida   32403

                              (Appearing on behalf of Federal  
                              Executive Agencies)

1		<u>I N D E X</u>			
2					
3	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	SCOTT RUNGREN				
4	By Mr. Sturtevant	321		368	
	By Ms. Satter		325		370
5	By Mr. Alperin		366		
6	RICH KERCKHOVE				
	By Mr. Sturtevant	372			
7	By Mr. Lannon		378		
	By Ms. Satter		409		
8	By Mr. Robertson		443		
9	DAVID SACKETT				
	By Mr. Lannon	448			
10	By Mr. Whitt		452		
11	RICH KERCKHOVE				
	By Ms. Satter		551		
12	By Mr. Alperin		580		
	By Mr. Lannon		581		
13					
	MIKE OSTRANDER				
14	By Mr. Olivero	583			
	By Ms. Zehr		589		
15					
	JANIS FREETLY				
16	By Mr. Lannon	612		633	
	By Mr. Whitt		616		
17					
18					
19					
20					
21					
22					

1		<u>EXHIBITS</u>		
2			<u>MARKED</u>	<u>ADMITTED</u>
3	IAWC Exhibits 5.00 Revised, 5.00	e-Docket		376
	Supp, 5.01 Supp through 5.03			
4	Supp, 5.00R Revised, 5.01R			
	through 5.05R, 5.00SR Revised and			
5	5.01SR through 5.09SR			
	IAWC Exhibits 6.00 Revised, 6.01,			324
6	6.02, 6.00 Supp through 6.02			
	Supp, 6.00R through 6.03 R,			
7	6.00SR, 6.01SR Revised, 6.02SR &			
	6.03SR			
8	IAWC Cross Exhibits 3, 4 and 5			610
9	AG Cross Exhibits 10, 11, 12 & 14	e-Docket		363
	AG Cross Exhibits 15 thru 20 and			578
10	24 thru 26			
	AG Cross Exhibits 21, 21A, 22 & 23			551
11	AG Cross Exhibit 27			569
12	Staff Cross Exhibit 2.0	e-Docket		365
	Staff Cross Exhibits 3.0 and 3.1	e-Docket		408
13	(Confidential)			
	Staff Exhibits 3.0, 11.0 and 16.0	e-Docket		616
14				
	IIWC Cross Exhibit 2	e-Docket		447
15				
16				
17				
18				
19				
20				
21				
22				

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

PROCEEDINGS

JUDGE JONES: Good morning. I call for hearing  
Docket No. 11-0767. This is entitled in part  
Illinois-American Water Company proposed general  
increase in water and sewer rates.

At this time, we will take again the  
appearances orally for the record. If you've  
appeared yesterday or at the prior hearings, you need  
not restate your business address or your business  
phone number or respell your name unless you simply  
prefer to do that.

We will start with the appearance or  
appearances on behalf of Illinois-American Water  
Company.

MR. STURTEVANT: Good morning, Your Honor.  
Appearing on behalf of Illinois-American Water  
Company, Albert Sturtevant, Mark Whitt and Anne M.  
Zehr of Whitt Sturtevant, LLP. Our appearances were  
entered yesterday.

MR. REICHART: Good morning, Judge.

Also appearing on behalf of  
Illinois-American Water Company John J. Reichart and

1     Kenneth C Jones.   We have previously provided our  
2     appearance information.

3             JUDGE JONES:   Okay.   Thank you.

4                     Any other appearances on behalf of  
5     Illinois-American?

6                     Let the record show there are not.

7                     Let's move along to Commission staff.

8             MR. OLIVERO:   Thank you, Your Honor.

9                     Appearing on behalf of the staff  
10    witnesses, Nicole Luckey, Michael Lannon, and Jim  
11    Olivero, and our appearances and address and phone  
12    numbers have been previously provided.

13             JUDGE JONES:   All right.   Thank you.

14                     Other appearances?

15             MS. SATTER:   Appearing on behalf of the People  
16    of the State of Illinois, Timothy O'Brien and Susan  
17    L. Satter, and we entered our appearance earlier in  
18    this case.

19             JUDGE JONES:   Okay.   Thank you.

20                     Other appearances this morning?

21                     Mr. Balough?

22             MR. BALOUGH:   Yes.   Appearing on behalf of the

1 Cities of Champaign and Urbana and the Villages of  
2 St. Joseph, Savoy and Philo, Richard C. Balough,  
3 Cheryl Dancey Balough, Balough Law Offices, LLC.

4 MR. ALPERIN: Jeff Alperin here on behalf of  
5 the Village of Bolingbrook.

6 MR. RYAN: Ryan Robertson on behalf of the  
7 Illinois Industrial Water Consumers, Lueders,  
8 Robertson & Konzen.

9 MR. MILLER: Captain Sam Miller on behalf of  
10 Federal Executive Agencies.

11 JUDGE JONES: Thank you.

12 Are there any other appearances to be  
13 entered at this time?

14 Let the record show there are not.

15 Are there any updates with respect to  
16 the witness schedule or other procedural plans for  
17 today's purposes?

18 MR. STURTEVANT: There are, Your Honor.

19 The company has agreed to waive cross  
20 of staff witnesses Hathhorn, Boggs, and Harden.

21 JUDGE JONES: Thank you.

22 Are there any other updates in the



1 witness schedule?

2 MR. OLIVERO: I guess just to clarify, as I  
3 understand it, there was ten minutes for Illinois  
4 Water.

5 MR. ROBERTSON: Your Honor, Illinois Industrial  
6 Water Consumers are waiving their cross of staff  
7 witness Boggs as well.

8 MR. OLIVERO: So that should take care of any  
9 cross for Boggs at all.

10 JUDGE JONES: All right. Thank you.

11 Any questions about what has been  
12 updated so far?

13 There are not.

14 Any other updates with respect to the  
15 witness lineup or cross estimates or order of  
16 witnesses?

17 Let the record show there are not.

18 Is the plan of the parties still to  
19 have Mr. Rungren go next or has that changed?

20 MR. STURTEVANT: No, that's still the plan,  
21 Your Honor.

22 JUDGE JONES: All right. Are you ready to

1     proceed with that or was there something else that  
2     needed to be taken up ahead of that?

3             MR. STURTEVANT:   No.   I think we're ready to  
4     proceed with Mr. Rungren.

5             JUDGE JONES:   Sir, please stand to be sworn.

6                             (Whereupon the witness was sworn  
7                             by Judge Jones.)

8             Jones:   Thank you.   Please be seated.

9             MR. STURTEVANT:   Good morning, Mr. Rungren.

10            MR. RUNGREN:   Good morning.

11                             SCOTT RUNGREN

12     called as a witness herein, on behalf of  
13     Illinois-American Water Company, having been first  
14     duly sworn on his oath, was examined and testified as  
15     follows:

16                             DIRECT EXAMINATION

17     BY MR. STURTEVANT:

18             Q.    Could you state your full name and business  
19     address for the record, please?

20             A.    Yes.   Scott Rungren.   My address is 727  
21     Craig Road, St. Louis, Missouri   63141.

22             Q.    Mr. Rungren, do you have in front of you

1     what has been marked as IAWC 6.00 Revised, the  
2     Revised Direct Testimony of Scott Rungren  
3     accompanying the exhibits IAWC Exhibits 6.01 and  
4     6.02?

5             A.    Yes.

6             Q.    Is that your revised direct testimony that  
7     was prepared for this proceeding?

8             A.    Yes, it is.

9             Q.    That was prepared by you or under your  
10    direction and supervision?

11            A.    Yes.

12            Q.    And do you have what has been marked as  
13    IAWC Exhibit 6.00 Supp, Supplemental Direct Testimony  
14    of Scott Rungren, with accompanying exhibits IAWC  
15    Exhibits 6.01 Supp and 6.02 Supp?

16            A.    Yes.

17            Q.    And was this supplemental direct testimony  
18    prepared by you or under your direction and  
19    supervision?

20            A.    Yes.

21            Q.    Do you have what is marked as IAWC 6.00R,  
22    Rebuttal Testimony of Scott Rungren, with

1        accompanying IAWC Exhibits 6.01R, 6.02R, and 6.03R?

2            A.    Yes.

3            Q.    And was this rebuttal testimony prepared by

4        you or under your direction or supervision?

5            A.    Yes, it was.

6            Q.    And finally, do you have what is marked as

7        IAWC 6.00SR, Surrebuttal Testimony of Scott Rungren

8        with accompanying exhibits IAWC Exhibit 6.01SR

9        Revised, 6.02SR, and 6.03SR?

10          A.    Yes.

11          Q.    And was this surrebuttal testimony prepared

12        by you or under your direction or supervision?

13          A.    Yes, it was.

14          Q.    And if I were to ask you today the

15        questions contained in your direct, supplemental

16        direct, rebuttal and surrebuttal testimony, would

17        your answers be the same?

18          A.    Yes, they would.

19          Q.    And is the information contained in your

20        direct surrebuttal or your direct supplemental

21        rebuttal and surrebuttal testimony true and correct

22        to the best of your knowledge and belief?

1           A.    Yes.

2           MR. STURTEVANT:  Your Honor, at this time, we  
3   would move those previously identified exhibits into  
4   evidence and then make Mr. Rungren available for  
5   cross-examination.

6           JUDGE JONES:  Thank you.

7                       Are there any objections to that?

8                       Let the record show there are not.

9                       Those exhibits, IAWC exhibits are  
10   hereby admitted into the evidentiary record.  The  
11   identification has already been noted this morning.  
12   It also appears on the exhibit list.  Those exhibits  
13   are admitted as they appear on e-Docket on the filing  
14   dates noted in the exhibit list.

15                               (Whereupon IAWC Exhibits 6.00  
16                               Revised, 6.01, 6.02, 6.00 Supp  
17                               through 6.02 Supp, 6.00R through  
18                               6.03 R, 6.00SR, 6.01SR Revised,  
19                               6.02SR & 6.03SR were admitted  
20                               into evidence at this time.)

21           JUDGE JONES:  It appears there will be  
22   cross-examination by maybe two to four parties.

1                   Counsel, who would like to start?

2           MS. SATTER: I'll start.

3           JUDGE JONES: All right. Ms. Satter.

4           MS. SATTER: Thank you.

5                   Good morning, Mr. Rungren. How are

6   you?

7           THE WITNESS: Good morning.

8           MS. SATTER: I have a couple questions for you.

9                   CROSS-EXAMINATION

10   BY MS. SATTER:

11           Q. I wanted to start with your supplemental

12   testimony. On page 6, line 19, you talk about

13   corrections to rate base, and are those corrections

14   solely related to cash working capital or are there

15   other corrections?

16           MR. STURTEVANT: You mean line 119?

17           MS. SATTER: Yes.

18           A. Yeah, the corrections I'm speaking of there

19   are related to just cash working capital calculation.

20           Q. Okay. Because cash working capital is a

21   rate base adjustment, so you call it rate base, is

22   that right?

1           A.    Yes.

2           Q.    And at line 132 you state, the company's  
3   updated federal income tax is 19,647,600, correct?

4           A.    Correct.

5           Q.    And that's the first revised update.

6                    In your surrebuttal testimony, did you  
7   change that tax amount on your Schedule B-8, Third  
8   Revised. I just want to get the most recent number.  
9   It would be on line 23 and 24 of both federal and  
10   state.

11          A.    That's the B-8 attached to the surrebuttal?

12          Q.    Yes. So it would be IAWC Exhibit 6.02 SR,  
13   May 8th, 1 through 12, and then it says schedule B-8,  
14   Third Revised, and I'm just looking at page 1. It's  
15   a slightly different number, but it represents the  
16   same thing?

17          A.    Yes, it represents the same thing.

18          Q.    Okay. So that number was updated on  
19   surrebuttal?

20          A.    Yes.

21          Q.    Was that just an input for you?

22          A.    Correct. It was just a minor change in

1 income statement items.

2 Q. Okay. I just wanted to follow the numbers.

3 And then returning to your  
4 supplemental on page 7 at lines 138 to 140, you talk  
5 about the updated total company amount for rate case  
6 amortization is \$753,361.

7 Do you know if that figure has  
8 changed?

9 A. For the cash working capital?

10 Q. Well, I guess, is it an input to cash  
11 working capital, is that the -- I think it's part of  
12 your total line 5.

13 A. This represents cash working capital  
14 adjustment.

15 Q. Okay. But here you have a rate case  
16 amortization, is that correct?

17 A. Yes.

18 Q. And does that represent a deferred amount  
19 of rate case expense?

20 A. Well, it's a --

21 Q. Or unamortized balance of rate case  
22 expense?



1           A.    No.   That is the annual amortization of the  
2   rate case expense.

3           Q.    Oh, that's the annual amortization.   Okay.

4                    Is that for this case only or does  
5   this include prior cases?

6           A.    Are you speaking of the \$753,000 number?

7           Q.    Yes.

8           A.    Give me one minute.

9                    That is the total amount that we're  
10   amortizing.

11          Q.    Okay.   So would that include the amortizing  
12   for total rate case expense for this case plus what  
13   was left of the rate case expense from the 2009 and  
14   2007 cases?

15          A.    I'm not sure.   I think it's the total  
16   amount.

17          Q.    Okay.   So it would be all three years?

18          A.    Yeah, I think so.

19          Q.    Do you know if there's a balance from the  
20   2007 still to be recovered?

21          A.    I would think not but I'm not sure.

22          Q.    You're not sure.   Okay.

1                   Would you turn to your rebuttal  
2   testimony? You say on page 3, the first full bullet  
3   point, you say that the staff witness in this case  
4   fails to recognize that IAWC is responsible for  
5   raising its own capital, and therefore, the IAWC  
6   manages its capital structure independently of AWW,  
7   right? Are you with me?

8           A.    Correct, yes.

9           Q.    Okay. Now, you understand that American  
10   Water Capital Corporation participates in  
11   Illinois-American attained capital or supplies  
12   capital to them?

13          A.    Illinois-American has availed itself of  
14   Capital Corp services to place debt.

15          Q.    Okay. And, in fact, Illinois-American pays  
16   substantial interest to American Capital for  
17   long-term debt, isn't that right?

18          A.    It pays -- it services the interest  
19   requirements on that debt to Cap Corp, whatever the  
20   interest expense is.

21          Q.    Okay. And they also, Illinois-American  
22   also pays some issuance costs to the Capital

1 Corporation associated with obtaining that debt,  
2 correct?

3 A. Yes. It will pay, in the event that Cap  
4 Corp issues debt on behalf of multiple American Water  
5 subsidiaries, Illinois-American will pay its pro rata  
6 share of the total issuance cost.

7 In the case of interest, I mean, it  
8 pays interest to Cap Corp. The interest is then  
9 forwarded on to the investor, the bondholder.

10 Q. In fact, isn't it correct that  
11 Illinois-American in the test year is projected to  
12 provide about \$40 million to the American Cap Corp or  
13 Capital Corporation?

14 In fact, I can refer you to AG Cross  
15 Exhibit 1 which is Schedule C-13. Would that help  
16 you in just being familiar with the number?

17 A. I could look on my Schedule D-3 as well.

18 Q. Okay.

19 (Pause)

20 A. I'm showing annual coupon interest related  
21 to Cap Corp debt in the amount of approximately  
22 \$20.5 million for the test year.

1           Q.    Right.  And then Illinois-American also  
2   provides another approximately 20 million for common  
3   dividends, correct?

4           A.    You're speaking of the test year?

5           Q.    Yes.

6           A.    I believe it's projected to be around 21  
7   million as I recall.

8           Q.    Is it correct that Illinois-American pays  
9   long-term interest to entities other than the Capital  
10   Corporation?

11          A.    Yes.

12          Q.    And is it also true that Illinois-American  
13   pays interest for short-term debt to entities other  
14   than the Capital Corp?

15          A.    Currently, the company has no short-term  
16   debt obligations to any entity except Cap Corp.

17          Q.    Oh, okay.  What about over the last say  
18   three years?

19          A.    No.  All its cash needs, short-term cash  
20   needs have been met from Cap Corp.

21          Q.    What does it mean to have a negative  
22   short-term debt interest?

1           A.    Negative short-term debt interest?

2           Q.    Yeah.

3           A.    It probably means that we were in a lending  
4   position to Cap Corp.  If we are in a lending  
5   position to Cap Corp, then we earn interest on the  
6   piece that we loan to them.

7           Q.    Okay.

8           A.    That typically does not occur.

9           Q.    Do you know that in Schedule C-13 for the  
10   test year, it's shown that there is a \$205,026  
11   short-term debt interest, and it looks like it's a  
12   negative number for the test year?

13          A.    I haven't seen that.

14          Q.    Does that make sense to you?

15          MR. STURTEVANT:  Do you have a copy?  Maybe you  
16   could show me or him.

17          MS. SATTER:  Here.  That was from yesterday but  
18   I'll be happy to hand it to him.

19                               (Whereupon Ms. Satter handed a  
20                               document to Mr. Sturtevant.)

21                               (Pause)

22          MS. SATTER:  Would that help to take a look at

1     that?  That's AG Cross Exhibit 1 which is Schedule  
2     C-13?

3                                 (Pause)

4             THE WITNESS:  Okay.  I see that.

5             Q.  BY MS. SATTER:  So that's consistent with  
6     what you suggested, that maybe there was short-term  
7     money that was made available to the Capital  
8     Corporation for that year?

9             A.  It's probably due to the fact that for  
10    certain months, the business plan has negative  
11    short-term debt balances which would again result in  
12    interest income, short-term interest income, which  
13    will show up on that schedule as negative interest.

14            Q.  So that would be an increase to other  
15    income for the company?

16            A.  As income.  I'm not sure where it shows up  
17    on the income statement.

18            Q.  Now, you agree that the service company  
19    provides corporate finance support to  
20    Illinois-American?

21            A.  Yes.

22            Q.  And, in fact, you're a service company

1       employee?

2               A.    Yes, I am.

3               Q.    What states other than Illinois do you

4       provide services for?

5               A.    Me personally?

6               Q.    Yeah.

7               A.    Theoretically, it could include Missouri,

8       Illinois, Iowa, Michigan, Indiana, Kentucky and

9       Tennessee.

10              Q.    So the Midwestern states?

11              A.    It's called the central division states.

12              Q.    How long have you been with the service

13       company?

14              A.    Five years.

15              Q.    And have you always been in the central

16       division or were you ever in other states?

17              A.    Well, for a while we weren't referred to as

18       the central division, but during that time, I was

19       focused pretty much exclusively on Illinois.

20              Q.    Are you still focused primarily on

21       Illinois?

22              A.    That remains to be seen, but theoretically,

1 I could be working on any of those states that I  
2 named going forward.

3 Q. Okay.

4 A. This restructuring happened very recently.

5 Q. Okay. But prior to the restructuring, were  
6 you focusing primarily on Illinois?

7 A. Yes.

8 Q. Okay. Would you say a hundred percent of  
9 your time?

10 A. No; probably 90 percent.

11 In the past, I have done work for many  
12 of the central states.

13 Q. So when you say in your testimony that  
14 Illinois-American manages its capital structure  
15 independently of AWW, you don't mean to imply that  
16 Illinois-American does not use the services of the  
17 service company to develop its capital structure?

18 A. Yes, I do.

19 Q. So are you suggesting that there are people  
20 internal to Illinois-American who do this work?

21 A. Yes.

22 Q. And who would that be?



1           A.   Well, the company prepares its own business  
2   plan annually, and in that business plan is  
3   incorporated a financing plan.  A financing plan will  
4   include external permanent financings to meet its  
5   capital expenditure needs and other long-term  
6   financing needs.

7                       So the business plan contains a plan  
8   for debt issuances, if any, and equity issuances if  
9   any, and that plan is drawn up by Illinois-American  
10  personnel or service company people working on behalf  
11  of Illinois-American, and then that plan is approved  
12  by the Illinois-American board of directors.

13          Q.   So the service company does assist them in  
14  preparing the plan or service company personnel?

15          A.   Personnel, yes, but they're working for or  
16  on behalf of Illinois-American.

17          Q.   And they have available to them the  
18  resources of the Capital Corporation?

19          A.   Yes, but typically, Capital Corporation is  
20  not involved in the development of the business plan.

21          Q.   They don't consult with them?

22          A.   Not at that stage.  I mean, in the

1 execution of debt financings, yes, then they would  
2 work with Cap Corp, but to actually develop the  
3 financing plan, I don't recall working with Cap Corp  
4 on that.

5 I mean, I was involved personally with  
6 two or three financing plans, two or three different  
7 business plan developments.

8 Q. Okay. Now I want to ask you some questions  
9 about the prepayment of service company fees.

10 I believe you say in your testimony,  
11 in your rebuttal testimony, that Illinois-American  
12 would pay working capital as part of the service  
13 company overhead if no prepayment of costs is  
14 allowed, is that correct?

15 A. Can you refer me to a specific reference?

16 Q. Page 36, line 790.

17 A. That's correct.

18 Q. Now, you agree with me that the service  
19 company agreement authorizes the payment of interest  
20 on working capital as part of overhead?

21 MR. STURTEVANT: I'm going to object on the  
22 grounds of foundation. No foundation has been

1 established yet for Mr. Rungren to discuss the  
2 service company agreement.

3 Q. Do you know whether the service company  
4 provides for the inclusion of working capital in  
5 overhead?

6 MR. STURTEVANT: Again, I'm going to object.  
7 No foundation.

8 MS. SATTER: I'm asking the question. How do I  
9 create a foundation if I can't ask the question.

10 JUDGE JONES: Yeah, I'll regard that question  
11 as an attempt, a question that relates to attempting  
12 to lay a foundation, so on that basis, objection  
13 overruled.

14 Please answer if you know.

15 A. You're asking if the service company  
16 charges Illinois-American interest on working  
17 capital?

18 Q. No, no, no. I'm asking you if you know  
19 whether the service company agreement authorizes the  
20 payment of interest on working capital as part of  
21 overhead.

22 A. This is working capital of the service

1 company?

2 Q. Yes.

3 A. I don't know.

4 Q. Now, you said in your testimony that the  
5 service company provides services on a nonprofit  
6 basis, correct?

7 A. That is true.

8 Q. And if working capital is included in, if  
9 working capital for the service company is included  
10 in the Illinois-American rate base, wouldn't  
11 consumers then be paying a profit component as part  
12 of the return on capital for service company  
13 expenses?

14 MR. STURTEVANT: Objection, Your Honor. I  
15 don't think that there's been any fact established  
16 that working capital of the service company exists or  
17 is included in anything.

18 MS. SATTER: You know, I don't think that  
19 counsel should testify for the witness. The witness  
20 can answer that question if that's the case. I mean,  
21 I don't have to ask him questions about things that  
22 are already established. I'm asking him questions to

1     get answers.

2             MR. STURTEVANT:  It's assuming facts not in  
3     evidence.

4             JUDGE JONES:  Can I have the question read  
5     back, Ms. Reporter?

6                             (The reporter read back the last  
7                             question.)

8             JUDGE JONES:  Is that hypothetical?  I mean, if  
9     it is...

10            MS. SATTER:  It's an "if" question, yeah,  
11     because it's not in there.  I mean, the working  
12     capital isn't there yet, and I'm asking him what's  
13     the effect of it.

14            JUDGE JONES:  All right.  On that basis,  
15     Mr. Rungren, answer the question if you understand it  
16     and can answer it.

17                             Do you need it read back?

18            THE WITNESS:  That would be helpful, yes.

19            JUDGE JONES:  Ms. Reporter, could you read that  
20     back again, please.

21                             (The reporter reread the last  
22                             question.)

1           THE WITNESS: Working capital is a cost of  
2   doing business. I wouldn't refer to that as a profit  
3   item.

4                   I don't think the service company's  
5   working capital, to the extent it has any, which I  
6   don't even think it does, would be included in  
7   Illinois-American's rate base.

8           Q. BY MS. SATTER: Okay. When you use the  
9   term nonprofit, how do you define profit? That's a  
10   term that people have used a lot in this case, and  
11   it's a little unclear to me exactly what people mean  
12   by profit and what they mean by nonprofit.

13          A. In this case, it would be a charge, it  
14   probably would be something above and beyond the  
15   actual cost the service company is incurring to  
16   provide services to the affiliates.

17          Q. So is another way of looking at profit a  
18   return commensurate with an equity return?

19          A. No. It would be excess -- it would be  
20   something that would inure to a shareholder to  
21   increase earnings to the company.

22          Q. That's another way of looking at profit?

1           A.    Yeah, and that's not happening with the  
2   fees that we are paying to the service company.

3           Q.    Now, on page 37 of your rebuttal testimony,  
4   line 824, you say that the service company prepayment  
5   conforms to the terms of the service agreement.

6                   Is it your understanding that the  
7   entire service company charge is paid in advance  
8   every month?

9           A.    For the most part. There is a monthly fee  
10   prepayment that we make to the service company.  
11   There is also, you might call it a true-up from the  
12   previous month, and that goes on each month.

13          Q.    And in your cash working capital  
14   calculation, how did you calculate that advance  
15   payment?

16          A.    I didn't personally calculate the payment.

17          Q.    Do you know whether it was the total amount  
18   of company services obligation that's projected for  
19   the test year divided by 12?

20          A.    I'm not sure how that was done.

21          Q.    Do you know if there was any adjustment  
22   made due to the fact that there was some prepayment

1       and some true-up payments?

2           A.     Since the projected amount forecast?

3           Q.     For the amount in the test year, yes.

4           A.     Yeah, I don't know if that calculation

5       would have been done.

6           Q.     That they could make that distinction?

7           A.     Right. Because you're truing up actuals,

8       and we don't have actuals when you're dealing with a

9       forecasted test year.

10          Q.     So you say that the service company

11       agreement requires prepayment, so my question to you

12       is do you have the terms of the agreement that do

13       that, that contain that requirement?

14                   Actually, let me refer you to page 34.

15       You talk about it there as well, lines 749 to 750.

16                   Well, let me ask you this question.

17                   At that point of your testimony, you

18       quote from the service company agreement, correct?

19          A.     Yes, I do.

20          Q.     So you've seen the service company

21       agreement, is that correct?

22          A.     Yes, it is.



1           Q.   And you, in fact, relied on it in writing  
2 your testimony?

3           A.   Yes.

4           Q.   Okay.   Previously marked as AG Cross  
5 Exhibit 3 was the response to AG data request 8.5  
6 containing the service company agreement.

7                   Let me see if I have an extra copy to  
8 provide you so that you don't have to look at my  
9 copy.

10                   If I may approach the witness and just  
11 hand him a copy?

12           JUDGE JONES:   Sure.

13           Q.   Can you look at page 11, 4.1?

14           A.   I'm there.

15           Q.   So do you agree that this Section 4.1  
16 governs Illinois-American's payment to the service  
17 company?

18           A.   It's my understanding, yes.

19           Q.   Okay.   So that's what you're basing it on.

20                   And so this section says that billing  
21 will be as soon as practicable after the last day of  
22 each month; is that right?

1           A.    Yes.

2           Q.    And it makes the distinction between  
3   estimated cost for the coming month and actual costs  
4   as they true up, correct?

5           A.    Correct.

6           Q.    And then the last sentence of Section 4.1  
7   says, tell me if I'm reading this correct, "All  
8   amounts so billed shall reflect the credit for  
9   payments made on the estimated portion of the prior  
10  bill and shall be paid by the water company within a  
11  reasonable time after receipt of the bill therefor."  
12  Is that what it says?

13          A.    Yes, it does.

14          Q.    Okay.  And you are reading that to require  
15  prepayment?

16          A.    My understanding is what that is saying is  
17  that the true-up will reflect the fact...it will  
18  reflect the estimated payment made the previous  
19  month.

20          Q.    So the estimated payment is paid within a  
21  reasonable period, and the true-up is paid within a  
22  reasonable period under the terms of that agreement,

1 correct?

2 A. I believe each monthly payment contains the  
3 estimated payment for the current month and then a  
4 true-up for the previous month.

5 So you've got an actual component in  
6 the true-up and an estimated payment for the current  
7 month. That's how I read that.

8 Q. And you testified previously that you were  
9 not aware of whether there was a provision in the  
10 agreement for -- well, strike that.

11 Now I have some additional questions.

12 Are you aware of the fact that  
13 Pennsylvania-American is the largest, I believe it's  
14 the second largest utility in the American Water  
15 system?

16 A. Yes, I am.

17 Q. New Jersey is somewhat larger, is that  
18 correct, or are they both in the same league?

19 A. They are the two largest American Water  
20 subsidiaries, I know that.

21 Q. And you know that Pennsylvania-American  
22 does not include a prepayment to the service company

1 in its cash working capital calculation, right?

2 MR. STURTEVANT: Objection, Your Honor, as to  
3 the relevance of what Pennsylvania does, and the  
4 question is also the subject of our motion to strike  
5 Mr. Smith's testimony. I don't believe it's  
6 appropriate for the Attorney General to try and  
7 circumvent whatever the ruling may be at this time by  
8 asking the same irrelevant questions.

9 MS. SATTER: The question is how should this  
10 accounting issue be treated, and I think it's  
11 informative to the Commission that other American  
12 Water affiliates interpret or apply the service  
13 company agreement in a different way.

14 JUDGE JONES: I think you can ask him if he  
15 knows that.

16 MS. SATTER: Sure.

17 JUDGE JONES: But not to make the assumption  
18 that that is the case and then have to answer the  
19 question with that assumption built into the  
20 question.

21 MS. SATTER: I mean, I'm asking him. I mean,  
22 it's cross-examination, so I'm doing it in a way that

1 kind of puts words in his mouth but I'm sure he has  
2 the ability to say no if that's incorrect.

3 JUDGE JONES: Can I have the question read  
4 back, please?

5 (The reporter read back the last  
6 question.)

7 JUDGE JONES: The language there, "do you know  
8 that," that puts an assumption into the question and  
9 so if you could reword it.

10 MS. SATTER: Okay.

11 Q. Do you know if Pennsylvania-American  
12 includes a prepayment to the service company in its  
13 cash working capital calculation?

14 A. I'm not intimately familiar with the  
15 Pennsylvania situation, but I believe that the  
16 Pennsylvania Commission ruled that the prepayment was  
17 not included in the calculation. It doesn't change  
18 the service company feed requirements that  
19 Pennsylvania-American has under the obligation, under  
20 the service company agreement, but it did change it  
21 for ratemaking purposes.

22 Q. And do you know how long that treatment has

1     been in effect?

2             A.    Not sure.  I thought it was maybe the early  
3     '90s, but I'm not sure.

4             Q.    And isn't it also correct that the service  
5     company agreement is essentially identical in  
6     substance for each water affiliate of American Water?

7             A.    I believe it is although I haven't seen the  
8     other states agreements, but my understanding is that  
9     they are identical.

10            Q.    And are you aware of any other states that  
11    have considered this issue of prepayment to the  
12    service company in the cash working capital  
13    calculation?

14            MR. STURTEVANT:  Your Honor, I'm going to  
15    object again to the line of questioning.

16                    Again, without some establishment of  
17    the relevance of what's happening in other states by  
18    establishing the comparability of their regulatory  
19    environments, their utilities and their situation, I  
20    fail to see what relevance this proceeding to what is  
21    happening in Pennsylvania or any other state has.

22            JUDGE JONES:  Response?

1           MS. SATTER: First of all, we've already  
2     established that it's the same, essentially the same,  
3     identical in substance, service company agreement in  
4     the different states.

5                     Number two, this question goes to an  
6     accounting issue, how cash working capital is  
7     addressed. That's an accounting question that can be  
8     addressed by other commissions just like any other  
9     accounting issue is addressed by various commissions.

10                    Obviously, the Pennsylvania assessment  
11    of specific numbers will be different than the  
12    Illinois assessment of specific numbers, what goes  
13    into the ultimate cash working capital adjustment,  
14    but the principles applicable to that adjustment I  
15    think are something that are generally discussed in  
16    the ratemaking community, and particularly when  
17    you've got affiliates with the identical service  
18    company contract, it's informative.

19                    And then finally, the argument has  
20    been made that there would be dire consequences if  
21    cash working capital were not treated this way; in  
22    other words, if the prepayment was not included, then

1 the service company costs would go up, and there  
2 would be other problems.

3 Well, let's see what happened in other  
4 states that, in fact, did this. I think it's very  
5 informative, and it's very, very relevant, and I  
6 don't think the Commission should shut out what's  
7 happened. I mean, certainly the company knows what's  
8 happened in other states. Why shouldn't you.

9 MR. STURTEVANT: Your Honor, if I may just  
10 briefly respond.

11 To the extent that orders have been  
12 issued in other jurisdictions, the attorney general  
13 or anybody else is absolutely free to cite those in  
14 their brief if they think they have some persuasive  
15 authority for this Commission.

16 What we're objecting to is the  
17 introduction of evidence that has not been  
18 established to be comparable. The witness has  
19 already said he hasn't reviewed the contracts in the  
20 other states. He's also said that he's not that  
21 familiar with what happened in Pennsylvania. I think  
22 it's simply inappropriate to try and establish what's



1     going on in another state through this witness.

2             JUDGE JONES: All right. Objection overruled

3     subject to a couple of notations. The objections

4     essentially go to the weight. I think it's

5     reasonable to allow counsel to pursue this line of

6     questioning, question the witness about these things.

7     The witness may have answers to some of the

8     questions, may not have answers for other of the

9     questions, but in any event, that's how we will

10    proceed at this point.

11            If further questions create further

12    problems in company counsel's mind, then we will take

13    them up.

14            Do you need the question read back?

15            THE WITNESS: Yes please.

16                    (The reporter read back the last

17                    question which read as follows:

18                    "And are you aware of any other

19                    states that have considered this

20                    issue of prepayment to the

21                    service company in the cash

22                    working capital calculation?")

1 JUDGE JONES: Will you please answer that if  
2 you have an answer?

3 THE WITNESS: When you say states, do you mean  
4 other state commissions?

5 MS. SATTER: Yes.

6 THE WITNESS: I have no idea.

7 Q. Okay. I would like to show you a document  
8 that I'm marking as AG Cross Exhibit 13. This is a  
9 response to AG data request 9.1, and you're the  
10 witness responsible, correct?

11 A. I am the witness responsible. I don't  
12 think I actually answered every subpart to this  
13 request but I did answer some of them.

14 Q. If you did not personally answer some  
15 subparts, were they answered on your behalf?

16 A. Yes.

17 Q. And so you're the person who is available  
18 to answer questions or to comment on this response?

19 A. I will to the extent I can.

20 Q. Okay. Let me draw your attention to the  
21 third page of this Exhibit H.

22 Reviewing that response, does that

1 refresh your recollection of other states that have  
2 considered the treatment of prepayment in the cash  
3 working capital calculation?

4 A. Where am I looking?

5 Q. H. Oh, I'm sorry. In the narrative, in  
6 the narrative section of the exhibit.

7 A. Oh, item H.

8 Q. Item H, yes.

9 A. Would you give me one minute to read the  
10 response?

11 Q. Sure.

12 (Pause)

13 A. Okay.

14 Q. And does this refresh your recollection  
15 that recommendations to remove the prepayment of  
16 service company costs from the lead lag study or  
17 cashing working capital were made in New Jersey,  
18 California, Tennessee and Missouri?

19 A. Well, this is referring specifically to a  
20 labor lag.

21 Q. Okay.

22 A. And, first of all, I did not prepare this

1     portion of the response but I have read it before.

2     But this is referring specifically to a labor lag.

3           Q.    Okay.  Why don't you tell me what you mean  
4     by labor lag then just so we can be clear.

5           A.    Well, these are proposals made in these  
6     cases by various parties.  I remember the list.  I  
7     think some of them were made by Commission employees,  
8     some were made by intervenors, and I don't remember  
9     specifically what the proposal was.  I didn't  
10    actually see what they proposed so I can't give you  
11    much detail on that.

12          Q.    But when you say the labor lag, what you're  
13    referring to is a recommendation to apply the water  
14    utility's labor lag to the service company management  
15    fees?  It's in the question.

16          A.    I think you're correct, yes.

17          Q.    So you personally haven't reviewed what's  
18    been done in other states on this issue?

19          A.    I have not.

20          Q.    Now, is it your belief that if the  
21    utility's labor lag were used for the service company  
22    fees that that would result in increased costs to the

1 water utility?

2 Strike that. Let me ask the question  
3 a different way.

4 What would be the consequence of using  
5 the utility's labor lag rather than a prepayment in  
6 the cashing working capital for a service company  
7 lease?

8 A. The likely result would be that the service  
9 company would need to attain its own working capital,  
10 and the cost of that working capital to attain that  
11 working capital would be passed on to the affiliates  
12 through a higher service company fee.

13 Q. And do you know if that happened in  
14 Pennsylvania or can you quantify -- well, yeah, let's  
15 start with that.

16 Do you know if that effect happened in  
17 Pennsylvania?

18 A. Well, as I said before, the Commission  
19 ruling in that case didn't change the fees that  
20 Pennsylvania was paying to the service company.  
21 Pennsylvania is taking a hit for that.  
22 Pennsylvania-American is taking a hit for that.

1           Q.    Okay.  So to the best of your knowledge,  
2    Pennsylvania-American did not include interest on  
3    working capital in its overhead as a result of this  
4    decision in Pennsylvania?

5           A.    I don't know.  I don't believe so.

6           Q.    But do you know?

7           A.    I don't know.

8           Q.    Okay.  Now, you would agree with me that  
9    American Waterworks Service Company does not prepay  
10   its employees, correct?

11          A.    That's correct.

12          Q.    And, in fact, it pays its employees the  
13   Friday after the end of a 14-day period that ends on  
14   the preceding Sunday.

15                   Does that sound correct?

16          A.    I think that's correct.

17          Q.    And, in fact, that's what's described in  
18   the answer to subpart Q in AG data request 9.1, is  
19   that right?

20          A.    Subpart what?

21          Q.    Q.

22          A.    Yes.

1           Q.    And if Illinois-American paid these  
2   employees directly, then these payroll costs would be  
3   included in the lead lag study in Illinois-American's  
4   own payroll lag, is that right?

5           A.    Would you read that back, please?

6                               (The reporter read back the last  
7                               question.)

8           A.    When you say these employees, what are  
9   you --

10          Q.    The employees providing service company  
11   services to Illinois-American.

12          A.    Well, if I'm understanding your question  
13   correctly, Illinois-American wouldn't be paying the  
14   service company employees directly.

15          Q.    Well, I'm saying hypothetically,  
16   hypothetically, if Illinois-American hired you,  
17   Mr. Rungren, directly because 90 percent of your work  
18   was spent for Illinois-American anyway so they hired  
19   you directly and they paid you directly rather than  
20   paying the service company for your services, then  
21   wouldn't the payment to you be included in  
22   Illinois-American's payroll lag in its lead lag study

1     assuming that you're taking the service company  
2     structure out of the mix?

3             A.    I believe you're correct.

4             Q.    Now, Mr. Rungren, as part of AG Cross  
5     Exhibit 13, there is an attachment, like a schedule  
6     of attachments, and it says Illinois-American Water  
7     Company responds to Illinois Office of Attorney  
8     General data request No. AG 9.1, Part C, assets over  
9     10,000.

10                   Can you verify that that's an  
11     attachment to this data request?

12             A.    I can.

13             Q.    Okay.  And I'm going to also provide you  
14     with a document that I'm marking as AG Cross  
15     Exhibit 14, and I'm going to ask you if this is also  
16     an attachment to AG data request 9.1.

17                   Does that represent the attachment for  
18     asset summary by class?

19             A.    That is the title of the document.  I don't  
20     know what this document is in response to.

21             MR. STURTEVANT:  Which attachment are we  
22     talking about -- 14, or is there an attachment to 13?



1 MS. SATTER: Well, it's marked as AG Cross  
2 Exhibit 14, but I'm asking, I want to verify that  
3 it's an attachment to AG data request 9.1, I believe  
4 it's B. If you look at the answer, it says please  
5 see AG 9.1B, attachment 1, but there's no label on  
6 the actual document so I just wanted to make sure  
7 that we're on the same page here.

8 THE WITNESS: This is an attachment to AG 9.1B,  
9 but there's no reference on the document.

10 MS. SATTER: Right.

11 THE WITNESS: It appears to be responsive to  
12 9.1B.

13 Q. Now, I also have three other data requests  
14 that I'd like to show you and request that they be  
15 marked.

16 For the record, counsel has looked at  
17 these already.

18 MS. SATTER: For the record, AG Cross  
19 Exhibit 10 is the question in response to AG data  
20 request 9.2.

21 AG Cross Exhibit 11 is the question  
22 and response to AG data request 9.3.

1                   And AG Cross Exhibit 12 is a question  
2   and response to AG data request 9.4.

3                   So I would like to move for the  
4   admission of AG Cross Exhibits 10 through 14, and I  
5   understand that, I've spoke to counsel for the  
6   company, 10, 11, 12 I believe there are no problems.

7           MR. STURTEVANT:  There are no problems with 10,  
8   11 or 12.  I have a problem with 13.  There's a lot  
9   in here.  There's a number of objections.  You've  
10   asked some questions about it.  Is there something  
11   specific from this, you know, or are you trying to  
12   get the whole thing in?

13           MS. SATTER:  Well, I did ask questions about  
14   this.  The witness relied on -- I showed the witness  
15   the responses to refresh his recollection, and I  
16   believe that Your Honor has essentially ruled on the  
17   objections.

18           MR. STURTEVANT:  Right.  That part is all in  
19   the record, but I'm talking about the other 25  
20   subparts in this question.  I don't know that we want  
21   to take everybody's time to go through all the  
22   subparts and resolve all the objections to them, so

1 I'm wondering, you know, if there's something  
2 specific in here, that's fine. If you want to  
3 include the ones that we've discussed and redact the  
4 rest, that's fine.

5 MS. SATTER: At this point, I would like to  
6 hold it and have a discussion with the company at a  
7 break because I think we can probably clarify or  
8 clear up quite a bit. So that would be -- keep them  
9 as a unit?

10 MR. STURTEVANT: That's fine.

11 JUDGE JONES: Is that 13?

12 MS. SATTER: That's 13.

13 MR. STURTEVANT: I actually don't have any  
14 objection to 14.

15 MS. SATTER: Okay. So then 14 we'd like to  
16 just be admitted, and then I'll talk to counsel about  
17 13, and I have no further questions. Thank you.

18 MR. REICHART: I'm sorry. Can you repeat  
19 again? I know 13 was not included, but was it 10,  
20 11, 12 and 14?

21 MS. SATTER: Yes.

22 JUDGE JONES: Illinois-American has no

1 objections to 10, 11, 12 and 14.

2 Does anybody else have any objections?

3 Let the record show they do not.

4 AG Cross Exhibits 10, 11, 12 and 14

5 are admitted into the evidentiary record.

6 (Whereupon AG Cross Exhibits 10,

7 11, 12 & 14 were admitted into

8 evidence at this time.)

9 JUDGE JONES: I think the plan yesterday was

10 that the AG exhibits will be at some point filed on

11 e-Docket?

12 MS. SATTER: Yes.

13 JUDGE JONES: We will continue with that

14 procedure.

15 MS. SATTER: We'll probably do that Friday

16 morning.

17 JUDGE JONES: And AG Cross Exhibit 13 remains

18 offered but there will be no ruling at this time

19 until the parties have had a chance to go over that.

20 Okay. According to the witness

21 lineup, Commission staff has cross questions for

22 Mr. Rungren. Is that the case?

1           MR. OLIVERO: Well, Your Honor, staff and  
2 Illinois-American had discussed putting in a couple  
3 of DRs by stipulation, so I can do that before we  
4 start our case, and if that were the case, then we  
5 would be waiving our few minutes of cross.

6           JUDGE JONES: Did you want to take that up now?

7           MR. OLIVERO: Well, it doesn't matter. Do you  
8 want me to do it now?

9           MR. STURTEVANT: Yeah, that's fine. Whatever  
10 everybody wants.

11          MR. OLIVERO: Your Honor, staff would move for  
12 admission into the record of Staff Group Cross  
13 Exhibit 2.0 which are the data request responses to  
14 JF 5.01, JF 5.02, CB 1.10 with attachment, CB 1.11  
15 with attachment, DLH 30.01, DLH 30-02, and DLH 30.03,  
16 and it was staff's intention to go ahead and file  
17 these on e-Docket electronically either tomorrow or  
18 Friday.

19          JUDGE JONES: You're offering those as a group  
20 exhibit, Staff Cross 2.0, is that right?

21          MR. OLIVERO: Correct.

22          JUDGE JONES: Are there any questions about the

1 content or identification of that exhibit or any  
2 objections to the admission of it?

3 Let the record show there are not.

4 Staff Cross Exhibit 2.0 which is a  
5 group exhibit is hereby admitted into the evidentiary  
6 record.

7 (Whereupon Staff Cross Exhibit  
8 2.0 was admitted into evidence  
9 at this time.)

10 JUDGE JONES: The exhibit will be filed on  
11 e-Docket?

12 MR. OLIVERO: Yes, Your Honor.

13 JUDGE JONES: So there will not be official  
14 copies marked by the court reporter; rather, it will  
15 be treated as an e-Docket exhibit.

16 Is that all of them?

17 MR. OLIVERO: That was all of them, Your Honor.  
18 Thank you.

19 JUDGE JONES: So with that then, you do not  
20 have any cross?

21 MR. OLIVERO: No cross for Mr. Rungren;  
22 correct.

1 JUDGE JONES: All right. Thank you.

2 One moment Mr. Alperin, did you have  
3 any questions of this witness?

4 MR. ALPERIN: I just had a couple if I can get  
5 those in really quickly.

6 Sir, I'm Jeff Alperin on behalf of the  
7 Village of Bolingbrook. I think we've met before.

8 THE WITNESS: Yes.

9 CROSS-EXAMINATION

10 BY MR. ALPERIN:

11 Q. Sir, with respect to these true-up  
12 payments, I wanted to clarify something.

13 In the test year, was there ever a  
14 negative true-up balance for any particular month?

15 A. My understanding is there is not a true-up  
16 calculation in the test year amounts.

17 Q. Oh, all right.

18 A. We're forecasting service company fees for  
19 the test year, but there's not a true-up component.

20 Q. So for the past year, let's go then one  
21 year back, was there ever a negative true-up balance  
22 during that time period?

1           A.    I don't know.

2           Q.    Okay.  And this is just a clarification  
3 question.

4                    If there is an additional amount owed  
5 on any particular true-up, does Illinois-American pay  
6 interest to the service company on that amount?

7           A.    Not to my knowledge.  There's no provision  
8 for that in the agreement.

9           MR. ALPERIN:  Okay.  Those are all the  
10 questions I had.  Thank you.

11          JUDGE JONES:  Thank you, Mr. Alperin.

12                   Mr. Balough, did you have any  
13 questions for Mr. Rungren?

14          MR. BALOUGH:  No, Your Honor.

15          JUDGE JONES:  Any other cross for this witness?

16                    There is not.

17                    Is there redirect?

18          MR. STURTEVANT:  Your Honor, would it be  
19 possible to take a break for five minutes given that  
20 he's been up for an hour and 20 or so?

21          JUDGE JONES:  Any problems with that?

22          MS. SATTER:  No.



1 JUDGE JONES: All right. We hereby take a  
2 five-minute break.

3 (Recess taken.)

4 JUDGE JONES: Back on the record.

5 Does the company have any redirect?

6 MR. STURTEVANT: Yes, Your Honor, we do have  
7 some brief redirect.

8 REDIRECT EXAMINATION

9 BY MR. STURTEVANT:

10 Q. Mr. Rungren, do you recall  
11 cross-examination from counsel for the AG regarding  
12 American Water Capital Corporation, or Cap Corp?

13 A. Yes, I do.

14 Q. Can you explain what the role of Cap Corp  
15 is in the American Water system?

16 A. The role of Cap Corp, Cap Corp is the  
17 financing subsidiary, the financing affiliate for the  
18 system, so in addition to the cash management  
19 services they provide to all the subs, they also  
20 provide long-term debt financing needs. Cap Corp  
21 will issue debt instruments on behalf of perhaps  
22 multiple subsidiaries at one time and by doing so, it

1 reduces issuance cost to American Water's  
2 subsidiaries due to the financing arrangement.

3 Q. So why would IAWC obtain long-term debt  
4 financing through Cap Corp?

5 A. At least two reasons, one being Cap Corp  
6 has a triple B plus rating and at least in recent  
7 years, the interest rate that Cap Corp can issue debt  
8 at is lower than what Illinois-American could issue  
9 on its own, and also, the issuance costs are lower  
10 per capita because they're larger issuances and the  
11 costs are spread over larger amount of dollars, so  
12 the percentage cost to the affiliates is lower than  
13 if they issued debt on their own.

14 Q. And if Illinois-American did issue debt on  
15 its own, would it have to pay interest expense?

16 A. Yes.

17 Q. Would it have to pay issuance expense?

18 A. Yes.

19 MR. STURTEVANT: We have no further questions,  
20 Your Honor.

21 JUDGE JONES: Thank you.

22 Is there any recross?

1 MS. SATTER: I just have one quick question.

2 RECROSS-EXAMINATION

3 BY MS. SATTER:

4 Q. You said that the Capital Corp has a better  
5 bond rating than Illinois-American, is that right, or  
6 did I mishear that?

7 A. Well, Illinois-American does not have its  
8 own bond rating currently. It's the company's  
9 perception that Cap Corp can issue debt at a lower  
10 interest rate currently than Illinois-American can,  
11 but there's no question that the issuance cost piece  
12 will be lower if it's issued through Cap Corp.

13 Q. And so Illinois-American gets that lower  
14 long-term debt rate equivalent to what the Cap Corp  
15 can pay?

16 A. Yes. Whatever interest rate Cap Corp  
17 issues at is the interest rate that Illinois-American  
18 pays on that debt.

19 MS. SATTER: Okay. Thank you.

20 JUDGE JONES: Okay. Anyone else?

21 All right. The examination of  
22 Mr. Rungren is concluded. Thank you, sir.

1                   Is the plan to still call  
2   Mr. Kerckhove next?

3           MR. STURTEVANT:   Yes, Your Honor, the company  
4   would intend to call Mr. Kerckhove.

5           MS. SATTER:   Maybe before we begin, I have six  
6   DRs that was going to offer as cross exhibits.   I'd  
7   be happy to share them with the company now, and  
8   then, in the interest of efficiency, we can have  
9   those looked at while the questions are being asked.

10          JUDGE JONES:   Did you want a minute to look  
11   those over before you put on the witness or did you  
12   want to put him on?

13          MR. STURTEVANT:   Can I suggest this; that we  
14   proceed with Mr. Kerckhove while we have somebody  
15   look over the data responses, and we can round up the  
16   end of Mr. Kerckhove's testimony about the admission  
17   of these.   Is that okay?

18          MS. SATTER:   That's fine.

19                               (Whereupon the witness was sworn  
20                               by Judge Jones.)

21          MR. STURTEVANT:   Good afternoon, Mr. Kerckhove.

22          THE WITNESS:   Good morning, Mr. Sturtevant.

1           MR. STURTEVANT:  It certainly feels like  
2   afternoon to me.

3                           RICH KERCKHOVE  
4   called as a witness herein, on behalf of  
5   Illinois-American Water Company, having been first  
6   duly sworn on his oath, was examined and testified as  
7   follows:

8                           DIRECT EXAMINATION

9   BY MR. STURTEVANT:

10           Q.   Can you state your name and business  
11   address for the record?

12           A.   My name is Rich Kerckhove.  My business  
13   address is 727 Craig Road, St. Louis, Missouri  
14   63141.

15           Q.   Mr. Kerckhove, do you have in front of you  
16   what's been marked IAWC Exhibit 5.00 Revised, the  
17   Revised Direct Testimony of Rich Kerckhove?

18           A.   Yes, I do.

19           Q.   Was that direct testimony prepared by you  
20   or under your direction or supervision?

21           A.   Yes, it was.

22           Q.   And do you also have in front of you what

1       was marked as IAWC Supp, Supplemental Direct  
2       Testimony of Rich Kerckhove, with accompanying  
3       Exhibits 5.01 Supp and 5.03 Supp?

4             A.    Yes, I do.

5             Q.    Was that supplemental direct testimony --  
6       sorry.  Let me back up.

7                     Within that supplemental direct  
8       testimony, did you adopt portions of the direct  
9       testimony of Edward Grubb, namely, IAWC Exhibit 4.00,  
10      pages 2 through 12, pages 17 through 20, and IAWC  
11      Exhibit 4.01?

12            A.    Yes.

13            Q.    And was that supplemental direct testimony  
14      prepared by you or under your direction or  
15      supervision?

16            A.    Yes, it was.

17            Q.    Do you have what's marked as IAWC  
18      Exhibit 5.00R Revised, Revised Rebuttal Testimony of  
19      Rich Kerckhove?

20            A.    Yes, I do.

21            Q.    And that is accompanied by IAWC  
22      Exhibits 5.01R through 5.0.5R, correct?

1           A.    Yes.

2           Q.    Do you have any corrections to make to IAWC

3   5.00 Revised?

4           A.    Yes, I do, on page 27.

5           Q.    And what is the correction?

6           A.    On lines 614 and 615, the sentence, "The

7   feasibility of Mr. Collins' proposal depends on

8   whether all of Air Products' meters are located on

9   the same service line" should be deleted.

10          MR. STURTEVANT:  And just for everybody's

11   clarification, the deletion of that sentence is to

12   make his testimony consistent with a previous

13   correction that was filed in errata.  I believe it

14   was the fourth errata.

15          Q.    Was that revised rebuttal testimony

16   prepared by you or under your direction or

17   supervision?

18          A.    Yes.

19          Q.    And do you have what is marked as IAWC

20   Exhibit 5.00 SR Revised, Revised Surrebuttal

21   Testimony of Rich Kerckhove?

22          A.    Yes, I do.

1           Q.    And that is accompanied by IAWC  
2 Exhibits 5.01 SR through 5.09 SR, correct?

3           A.    Yes.

4           Q.    And did you prepare or direct and supervise  
5 the preparation of that revised surrebuttal  
6 testimony?

7           A.    Yes, I did.

8           Q.    If you were to be asked today the questions  
9 contained in your direct, supplemental direct,  
10 rebuttal and surrebuttal testimony, would your  
11 answers be the same?

12          A.    Yes, they would.

13          Q.    And is the information contained in your  
14 testimony and exhibits true and correct to the best  
15 of your knowledge and belief?

16          A.    Yes, it is.

17          MR. STURTEVANT:  With that, Your Honor, we  
18 would move for the entry into evidence of  
19 Mr. Kerckhove's testimony and exhibits and tender him  
20 for cross-examination.

21          JUDGE JONES:  Are there any objections to the  
22 exhibits sponsored by Mr. Kerckhove?



1                   Let the record show there are not.

2                   Those exhibits are admitted into the  
3   evidentiary record as identified this morning and in  
4   the exhibit list as filed on the file date shown on  
5   the exhibit list.

6                               (Whereupon IAWC Exhibits 5.00  
7                               Revised, 5.00 Supp, 5.01 Supp  
8                               through 5.03 Supp, 5.00R  
9                               Revised, 5.01R through 5.05R,  
10                              5.00SR Revised and 5.01SR  
11                              through 5.09SR were admitted  
12                              into evidence at this time.)

13           JUDGE JONES:   That correction appeared in, is  
14   it 5.00R Revised?   Is that where that is?

15           MR. REICHART:   That is correct, the revised  
16   rebuttal testimony, Your Honor.

17           JUDGE JONES:   All right.   Does the water  
18   company or anybody else have any objection to the  
19   corrected exhibit being filed on e-Docket as long as  
20   it is identical to what was already there with the  
21   correction, so-called correction that was identified  
22   this morning?

1           MR. STURTEVANT: That's fine, Your Honor. I  
2 believe we would then identify the exhibit as second  
3 revised.

4           JUDGE JONES: Any objections to any of that?

5                   Let the record show that there are  
6 not.

7                   So the rebuttal testimony will be  
8 filed on e-Docket as noted reflecting that one  
9 so-called correction and otherwise being the same as  
10 was filed previously.

11                   It looks like a number of parties have  
12 some questions for Mr. Kerckhove. Who would like to  
13 lead off?

14           MR. LANNON: Staff would if that's all right  
15 with everyone else.

16           JUDGE JONES: All right. Mr. Lannon, you're  
17 up.

18           MR. LANNON: Thank you, Your Honor.

19                   Hello, Mr. Kerckhove.

20           THE WITNESS: Good morning, Mr. Lannon.

21

22

1 CROSS-EXAMINATION

2 BY MR LANNON:

3 Q. You are employed by the American Waterworks  
4 Service Company, is that correct?

5 A. That is correct.

6 Q. And you used to be employed here at the  
7 Illinois Commerce Commission, is that right?

8 A. Between the years 1990 and 1998, yes.

9 Q. You anticipated my next question.

10 And I'm sure you've heard Commissioner  
11 O'Connell-Diaz say, "Once a Commission employee,  
12 always part of the family." Have you ever heard  
13 that?

14 A. Yes, I have actually.

15 Q. I knew you would have, and I'm sure you  
16 take that to heart, and in light of that, let me  
17 just -- I want to talk about an issue Mr. Boggs  
18 raised and you replied to him, and it has to do with  
19 Part 600.160(d) which I believe you're familiar with,  
20 is that right? I don't mean in any technical sense.

21 A. I don't have that part in front of me so  
22 you may have to refresh my knowledge about that or

1 point me to somewhere in my testimony.

2 Q. Yeah, sure.

3 If you want to turn to, and frankly, I  
4 kind of lost track of what we're calling these, but  
5 it says IAWC Exhibit 5.0SR, and I have it on page 5  
6 where you're responding to Mr. Boggs, and the  
7 Part 600.160 has to do with filing --

8 MR. STURTEVANT: Where are we, counsel?

9 THE WITNESS: I don't see that.

10 MR. LANNON: I've been a little confused trying  
11 to follow it myself.

12 Q. Here it is. IAWC Exhibit 5.0SR, and this  
13 is all I want. It would be line 191 roughly,  
14 question 21.

15 A. I think the difference was because my  
16 original testimony had some page numbering issues.

17 We're on the same page now.

18 Q. Yeah. And I noticed that. I thought at  
19 first I had printed them out wrong because I do that  
20 sometimes.

21 Okay. You're there where you're  
22 responding to Mr. Boggs' recommendation that you file

1     copies of bills pursuant to Code Part 600.160, is  
2     that right?

3             A.    I recall testifying regarding that issue in  
4     my rebuttal testimony, not in my surrebuttal.

5             Q.    That's the missing piece.  You're right.

6                     Rebuttal, if you have it in front of  
7     you, I think it's page 12, that I have not been able  
8     to locate, but I do have the relevant portions right  
9     here.

10            A.    I could share mine.

11            Q.    But basically, you address Code  
12   Part 600.160 at that location, right, in your  
13   testimony?

14            A.    I don't see that reference in my testimony.

15            Q.    Look around question 25.

16            A.    Again, I don't see that reference.

17            Q.    Oh, to the code part?

18            A.    Yes.

19            Q.    Oh, okay.  I'm sorry.

20                     The code part has to do with filing a  
21   copy of a sewer service bill with your tariffs.

22                     Do you see where you do address that?

1           A.    I see where I discuss Mr. Boggs'  
2    recommendation regarding the bill form.

3           Q.    Right.    Okay.

4                   And is the company willing to file the  
5    sewer service bill form as Mr. Boggs has recommended?

6           A.    I believe I answer that question beginning  
7    on line 280.

8           Q.    And what's the answer?

9           A.    And the answer is that Mr. Boggs will  
10   specify the format in which he is interested.   IAWC  
11   will work with staff to provide the sewer bills.

12          Q.    Okay.   Now, let's move on to a different  
13   area.

14                   You've testified on many different  
15   issues in this proceeding, haven't you, some in more  
16   depth than others?

17          A.    That would be a fair statement, yes.

18          Q.    Okay.   And you've also provided discovery  
19   responses where your name is on as a responder to  
20   many different types of staff DRs, is that roughly  
21   right?

22          A.    A lot of responses, yes.

1           Q.    A lot of them.  We like to keep you busy.

2                       Now I'd like to ask you some questions  
3   about your knowledge of the historic charges from the  
4   service company to the Illinois utility, IAWC.  This  
5   has been asked before, and the AG expressed some  
6   confusion this morning so I just want you to answer  
7   this.

8                       Does the service company operate at a  
9   profit?

10          A.    No.

11          Q.    So the service company passes all of its  
12   charges on to affiliates or other companies to which  
13   it provides services, correct?

14          A.    Yes.  Every month, the amount that the  
15   service company charges is, in essence, zeroed out,  
16   so there are adjustments to the amounts that have  
17   been billed to the affiliates.

18          Q.    Okay.  And that would be both affiliated  
19   regulated utilities and affiliated nonregulated  
20   companies?

21          A.    If the service company is providing  
22   services to both, then, yes, the service company

1       zeros out all of its expenses and charges those out  
2       at the end of every month.

3           Q.    So just so I'm clear, and I know I didn't  
4       ask that question too well, but you provide services  
5       to both Illinois-American and other regulated  
6       utilities, and you would zero those out, correct?

7           A.    I believe that the service company would  
8       zero those out as well as to all affiliated companies  
9       of the service company.

10          Q.    Including unregulated affiliated companies,  
11       correct?

12          A.    Since the service company operates at  
13       neither a profit nor a loss, I would think that that  
14       would be the case.

15          Q.    So that would be a yes, right?

16          A.    Yes.

17          Q.    So the service company would charge  
18       Illinois-American for a portion of its costs when  
19       it's zeroing these out, right?

20          A.    Well, it may not necessarily be a charge.  
21       It could also be a credit.

22          Q.    Okay. But if the service company incurred



1     some costs, Illinois-American would share its  
2     relative share of those costs, is that right?

3           A.   Well, the service company, to the extent  
4     that it can, direct charges to each entity for which  
5     it provides services, and to the extent that services  
6     are provided that can't be specifically identified  
7     with a specific entity, those amounts will be  
8     allocated.

9                     Now, as Mr. Rungren has testified just  
10    moments ago, amounts are billed at the beginning of a  
11    month, and those are estimated.  Then there is a  
12    true-up at the end of the month, and that true-up can  
13    either be a charge or a credit.

14           Q.   True-up for what, for the direct or for  
15    both direct and indirect costs?

16           A.   For all costs.

17           Q.   Okay.  Now, does the service company charge  
18    AWR for a portion of those costs?

19           A.   To the extent that the service company  
20    would perform services for AWR, yes.

21           Q.   Okay.  Now, can you turn to page 6, and  
22    hopefully I do have this -- yeah, yeah, I do have

1     it -- of your surrebuttal testimony which I have  
2     marked as 5.00SR, but I understand you may have  
3     revised that.

4             A.    I wish to go by line number because this is  
5     where we have the page issues.

6             Q.    Sure.  I understand.

7                     Actually, it's question 23 which is  
8     line 201, and it's your response to Mr. Sackett's  
9     proposed adjustment I want to look at.

10            A.    Sure.

11            Q.    And can you look at line 212?

12            A.    Yes.

13            Q.    And there -- I'll read it into the record,  
14     and you can tell me if I read that correctly.  You  
15     state, "It is my understanding per IAWC witness Karen  
16     Cooper's testimony that AWR paid increased rent after  
17     the second expansion and only a small portion of the  
18     total expansion related to AWR's facilities."

19                     One, did I read that correctly?

20            A.    Yes.

21            Q.    Now, where in Ms. Cooper's testimony are  
22     you referencing there, do you recall?  Was it in her

1       rebuttal?

2               A.    I don't recall.

3               Q.    Okay.  Do you see where it says "and only a  
4       small portion"?

5               A.    Yes.

6               Q.    What does that mean?

7               A.    The small portion is approximately  
8       one-third of a total expansion.

9               Q.    Now, is that one third of the space or  
10       one-third of costs?  When you say of the expansion,  
11       are you measuring square footage or are you measuring  
12       that in relative costs?

13              A.    The expansion for which AWR uses is  
14       approximately one-third of the square footage of the  
15       total expansion.

16              MR. LANNON:  Okay.  Now I want to show you a DR  
17       response.

18                               And, Your Honor, I believe we're at  
19       Staff Cross Exhibit 3.

20              JUDGE JONES:  Yes.

21              MR. LANNON:  So I'll mark this and refer to it  
22       as Staff Cross Exhibit 3, okay?

1 JUDGE JONES: Probably 3.0.

2 MR. LANNON: 3.0? Yeah, there will be  
3 attachments actually, Your Honor, so good idea.  
4 Staff Cross Exhibit 3.0.

5 And let me show you -- Your Honor,  
6 would you like a copy of this as we go through it?  
7 We have some copies.

8 JUDGE JONES: Yes, if you're going to ask  
9 questions about it why don't you give a copy to  
10 anybody else who wants one.

11 MR. LANNON: Unfortunately, we're not allowed  
12 to print up as many as we'd like to.

13 JUDGE JONES: Ms. Luckey, can you still hear  
14 everybody okay on your end?

15 MS. LUCKEY: I can hear you all great. Thank  
16 you.

17 Q. BY MR. LANNON: Do you have Staff Cross  
18 Exhibit 3.0 in front of you?

19 A. Yes, I do.

20 Q. Okay. Now in the response, do you see this  
21 second sentence beginning with AWR?

22 A. Yes, I do.

1           Q.    Could you read that sentence that begins  
2   with AWR?

3           A.    Can I read the corrected because it says  
4   AWR is accepted, but I believe that word is supposed  
5   to be expected.

6           Q.    Okay.  Actually, that's -- you're way ahead  
7   of me.  Okay.  So that's expected.  Why don't you go  
8   ahead then and read it corrected.

9           A.    Thank you.

10          Q.    You're welcome.

11          A.    "AWR is expected to pay for its Alton  
12   facility space directly in the test year and not be  
13   billed by the Alton call center except for certain  
14   telecom charges and a minor amount of labor charges."

15          Q.    Very good.  Thank you.

16                   Now, AWR is expected...  By expected,  
17   what do you mean?  Do you mean obligated under some  
18   agreement?

19                               (Pause)

20          Q.    Would you like me to reask that or --

21          A.    No.  It is a future test year, and so these  
22   are expected to be paid directly in the test year.

1           Q.    Okay.  I guess that helps, but expected,  
2   I'm still kind of puzzled by that.  Who expects?  Who  
3   or what I guess I should say?

4           A.    While I am the witness responsible for this  
5   particular data request.  This was prepared under my  
6   guidance and supervision but was not prepared  
7   directly by me.

8           Q.    Okay.  The question is still there.

9           A.    So the answer is I don't know under what  
10   authority.

11          Q.    Okay.  So you don't know who, you don't  
12   know what the term expected means in this context, is  
13   that right?  Is that the bottom line?

14          A.    Other than what I mentioned to you a few  
15   questions ago for the future test year.

16          Q.    Right.

17          A.    That is expected in the future.

18          Q.    Right.  But you don't know why the  
19   obligation exists and whether, or excuse me.  You  
20   don't know why that obligation exists, correct?

21          MR. STURTEVANT:  Your Honor, I'm going to  
22   object in that I think that this has been asked and

1     answered.  He said he doesn't know what it means or  
2     what the authority is.

3             MR. LANNON:  Your Honor, I'll move on.  I'll  
4     move on; same DR though.  We're not done yet.

5             Q.  All right.  In the response, see the last  
6     sentence?  I'll read it this time because you've  
7     proven your literate abilities.  "The amount of  
8     telecom charges in the test year is expected to be  
9     approximately the same as 211, correct?  Did I read  
10    that right?

11            A.  No, it's 2011.

12            Q.  Oh, I'm sorry, 2011.  Lawyers forget those  
13    zeros all the time.

14                    Okay.  What was the total amount in  
15    2011, do you know?

16            A.  Without the attachment, I don't know, but  
17    the response does indicate that the test year amount  
18    is approximately the same as 2011.

19            Q.  Okay.  You mentioned the test year before.  
20    Does in the test year mean during the test year?

21                               (Pause)

22            Q.  Do you want me to reask the question?

1           A.    Oh, you looked like you were going to  
2   continue saying something so...

3           Q.    No, I was just consulting with my expert.  
4   That's all.   But, yeah, there was a question.

5           A.    Could you please read back the question?

6                               (The reporter read back the last  
7                               question.)

8           A.    It means for the entire test year.

9           Q.    So AWR would incur telecom charges in the  
10   test year and recover -- the test year is IAWC's,  
11   right?

12                           Let me back up?

13                           When we talk about test year, that's  
14   regulated utilities, right?

15           A.    That's Illinois-American Water's test year  
16   ending September 13.

17           Q.    And when AWR would incur telecom charges in  
18   the test year, when would IAWC recover those costs  
19   from ratepayers?

20           MR. STURTEVANT:   Your Honor, I'm going to  
21   object in that I'm not sure a foundation has been  
22   established.   Otherwise, there's a link I think that



1     hasn't happened yet here.

2             MR. LANNON:   Your Honor, I'll rephrase the  
3     question.   Thank you.

4             Q.    During the test year, will AWR pay the  
5     phone company directly?

6             MR. STURTEVANT:   Your Honor, I'm going to  
7     object to that as calling for speculation.   It's  
8     asking for information that's outside the scope of  
9     this witness's testimony and his knowledge regarding  
10    AWR.

11            MR. LANNON:   Your Honor, he can answer whether  
12    he knows or not.

13            JUDGE JONES:   Overruled.

14                        Please answer the question if you have  
15    an answer.

16            THE WITNESS:   I don't know.

17            Q.    BY MR. LANNON:   All right.   Let's say AWR  
18    does not pay directly for Alton facility charges.  
19    How would IAWC rates be affected?

20            MR. STURTEVANT:   Again, Your Honor, I'm going  
21    to object that it calls for speculation and assumes  
22    that there even would be an affect on IAWC's rates.

1 JUDGE JONES: Mr. Lannon?

2 MR. LANNON: Your Honor, he has replied to a  
3 DR, and he read that portion in Staff Cross  
4 Exhibit 3.0 about how AWR is expected to pay for its  
5 Alton facility space directly in a test year. I'm  
6 just trying to find out what the link is between  
7 those direct payments in the test year and how they  
8 affect Illinois-American's rates.

9 JUDGE JONES: Well, Mr. Lannon, your question  
10 started off with the words "let's say." Are you  
11 asking that as a hypothetical?

12 MR. LANNON: Yes, I am.

13 JUDGE JONES: All right. On that basis we will  
14 allow the question and ask the witness to answer it  
15 if he can.

16 Do you need it read back, sir?

17 THE WITNESS: Please.

18 (The reporter read back the last  
19 question.)

20 THE WITNESS: If the amounts are the same under  
21 both scenarios and those can be identified and direct  
22 billed, then it would have no impact.

1           Q.    BY MR. LANNON:   Okay.   Do you know what the  
2   service company phone costs are in the pertinent  
3   budget?

4           A.    No.

5           Q.    You don't review those budgets?

6           A.    No.

7           Q.    Do you know what the amount of the service  
8   company phone costs are in the test year?

9           A.    Not off the top of my head, no.

10          Q.    Do you know what the basis of those service  
11   company phone charges in the test year would be such  
12   as would they be based on historical charges?

13          A.    I don't know how the service company  
14   develops its budget with regards to telephone  
15   charges.

16          Q.    Okay.   Do you know whether the service  
17   company charges to Illinois-American include charges  
18   for telecom costs for the CSC, or the customer  
19   service center?

20          A.    I believe so.

21          Q.    Do you know, are the historic service  
22   company charges to Illinois-American, a regulated

1 utility, based on the number of calls and average  
2 cost thereof?

3 MR. STURTEVANT: Your Honor, I'm going to  
4 object. I think we're going beyond the scope of  
5 Mr. Kerckhove's testimony. I think he's said what he  
6 knows about service company charges as it relates to  
7 the call center. Otherwise, I'm not sure there's a  
8 foundation.

9 MR. LANNON: Your Honor, he has replied to some  
10 of the questions that he doesn't know and I moved  
11 right on.

12 I'm just wondering if he knows the  
13 answer to the last question. If he doesn't know, I  
14 will move right on.

15 MR. STURTEVANT: That's fine, Your Honor. I'll  
16 withdraw the objection.

17 THE WITNESS: Could you please read that back?

18 MR. LANNON: Do you want me to reask it? Would  
19 it be quicker that way?

20 JUDGE JONES: If it's identical.

21 THE REPORTER: I've got it right here.

22

1 (The reporter read back the last  
2 question.)  
3 THE WITNESS: No, I don't know.  
4 MR. LANNON: Thank you.  
5 Q. Now, Ms. Cooper was on -- I'm sorry. I  
6 withdraw that.  
7 Your Honor, I'd like to go in camera  
8 now for, I don't know, about six, seven questions.  
9 JUDGE JONES: You anticipate going in camera  
10 for any other lines of questioning?  
11 MR. LANNON: No, and this would be my last line  
12 of questioning.  
13 JUDGE JONES: Will your first question itself  
14 include what's been identified as confidential  
15 information in the question itself?  
16 MR. LANNON: No, I don't believe so, Your  
17 Honor.  
18 JUDGE JONES: Why don't you go ahead with the  
19 question, and then before the witness answers it,  
20 we'll see if the company, Illinois-American Water  
21 Company, believes that we need to go in camera to  
22 proceed with that.

1           MR. LANNON:   Okay.

2           JUDGE JONES:   And you can interrupt the  
3   question too as he reads it if it raises what you  
4   believe to be confidential information within the  
5   question itself.

6                       Go ahead.

7           MR. LANNON:   What I'm going to hand out is  
8   Attachment 3 to the company's response to staff DR  
9   DAS-6.09 marked confidential, and I have one for you,  
10   Your Honor.

11          JUDGE JONES:   Did you intend this to be a cross  
12   exhibit or no?

13          MR. LANNON:   Actually, it's an attachment to  
14   Staff Cross Exhibit 3.0 so I was thinking maybe we'd  
15   call it -- whatever you want.   If it would be easier,  
16   we could call it Staff Cross Exhibit 4 or maybe 3.1  
17   since it's tied to the DR itself.

18          JUDGE JONES:   Does Illinois-American still  
19   believe this should be treated as confidential?

20          MR. STURTEVANT:   Your Honor, it's marked  
21   confidential, and I can't tell what year the  
22   information is related to so I think given that and

1 the cost information contained, I think we'd have to  
2 continue to propose it to be confidential.

3 MR. LANNON: Your Honor, as far as counsel's  
4 confusion, if you go back to the response at  
5 DAS-6.09, it identifies the attachment, Attachment 3,  
6 as 2011, including 2011 information, and, Your Honor,  
7 I can ask the witness a question to verify that.

8 MR. STURTEVANT: Yeah, I think we still would  
9 like to maintain the confidential designation  
10 although I appreciate the clarification on the year.

11 JUDGE JONES: Why don't you go ahead with your  
12 question, and we'll see what we need to do then.

13 MR. LANNON: Okay. I have a couple  
14 preliminary.

15 Q. Can you look at the bottom of that, and I  
16 think you'll see there the acronym SLAP, correct?

17 A. Yes.

18 Q. I knew what that meant yesterday but can  
19 you explain it for us?

20 A. I knew it yesterday too.

21 Q. Your memory is as bad as mine. Let me ask  
22 you.

1           A.    I got everything but the A I think.   Okay.  
2    I think I have it now.   I think it's the Service Line  
3    Awareness Program.

4           Q.    You were sincere at first.   I didn't really  
5    believe you.

6           A.    Once an ICC employee, always an ICC  
7    employee.

8           Q.    That loyalty.

9                       This attachment contains 2011  
10   information, does it not?

11                      And if you need to, you can look at  
12   the DR response itself.

13           A.    Again, as I mentioned to you earlier, this  
14   response was prepared under my direction, but I did  
15   not directly prepare this response so I cannot verify  
16   what year this represents.

17           Q.    You know, it is -- well, let's assume  
18   subject to check that it's 2011.   I could walk you  
19   through a number of other exhibits that are a little  
20   clearer but just looking at the DR response, you  
21   know, this sentence here -- excuse me.   I can't do  
22   that.   But if you look at the DR request and then the



1 explanation for attachments, would you agree that  
2 this contains 2011 information?

3 A. Subject to check, I will agree.

4 Q. That's fine. Thanks.

5 Okay. Let me ask you an overall  
6 question.

7 Does the SLAP charge equal the number  
8 of actual transfers?

9 You know what, excuse me. I'm going  
10 to withdraw that question and move on, and I'll come  
11 back to that.

12 Can you look at column B, line 15,  
13 which would be the bottom line across. Column B is  
14 quality transfers?

15 A. Yes.

16 Q. Can you tell me what the total number is  
17 subject to check for what we believe is 2011?

18 MR. STURTEVANT: Your Honor, I think I'm going  
19 to object to the question on the basis of relevance.  
20 Ms. Cooper's testimony yesterday established that the  
21 program in the so-called SLAP here is not applicable  
22 in Illinois, and so at this point, I don't believe

1 any nexus has been established to issues at issue in  
2 Illinois-American's proposed increase in rates.

3 JUDGE JONES: Response?

4 MR. LANNON: Your Honor, as we've seen this  
5 morning through Mr. Kerckhove, all the charges from  
6 the service company that get allocated pass through  
7 to affiliates including Illinois-American and also  
8 the resource company, AWR.

9 MR. STURTEVANT: Your Honor, I'm not sure that  
10 properly characterizes his testimony. He said that  
11 charges were passed to Illinois-American where  
12 appropriate direct charge or allocation but not that  
13 all costs of the service company are passed to  
14 Illinois-American.

15 MR. LANNON: I wouldn't argue with counsel's  
16 clarification.

17 JUDGE JONES: Objection overruled.

18 Q. BY MR. LANNON: Okay. Can you go to --  
19 we're still on line 15, column B at the bottom,  
20 total.

21 And we're in camera now, right?

22 JUDGE JONES: We're not.

1           MR. LANNON: Can we go into camera now, Your  
2 Honor?

3           JUDGE JONES: What's your question?

4           MR. LANNON: I want to get on the record...

5           JUDGE JONES: We're going to stay public as  
6 long as we can, but if we reach a point we need to go  
7 in camera, we'll do it.

8           MR. LANNON: I'm going to start asking him what  
9 these numbers are on line 15 going across.

10          JUDGE JONES: You're going to ask him what that  
11 number is?

12          MR. LANNON: Yes.

13          JUDGE JONES: Are you going to offer this as an  
14 exhibit?

15          MR. LANNON: I'd like to, but just in case, I  
16 thought I'd do it both ways. I'm not sure if I'm  
17 going to get objections to it or not.

18          JUDGE JONES: Why don't we try that first.  
19 That may avoid having to go in camera.

20          MR. LANNON: That's fine with me, Your Honor.

21          JUDGE JONES: And if we have to go in, so be  
22 it, but I like to keep the record public as long as

1 we can and avoid disruptions associated with  
2 in camera whenever possible, but if we have to go in,  
3 so be it.

4 MR. LANNON: No, I understand. Good idea.

5 JUDGE JONES: Perhaps you can refer him to a  
6 number or a value without specifically identifying  
7 it, and if that can be answered that way, maybe that  
8 will work, and if not, we'll do it the other way.

9 MR. LANNON: Your Honor, I would just move for  
10 Staff Cross Exhibit 3 including the attachment which  
11 is identified as Attachment 3, I'd move for the  
12 admission of the DR response Attachment 3 into the  
13 record. I'm not sure if you want me to call the  
14 attachment Staff Cross Exhibit 4 or 3.1.

15 JUDGE JONES: That's a good question.

16 Do you have any problem identifying it  
17 as 3.1?

18 MR. LANNON: No problem at all, Your Honor.

19 JUDGE JONES: Anybody else have a problem with  
20 that identification?

21 All right. That will be 3.1 then, and  
22 that's so-called DAS-6.09 confidential attachment,

1 correct?

2 MR. LANNON: That's correct, Your Honor.

3 Actually, it's Attachment 3 to DAS-6.09.

4 JUDGE JONES: Thank you.

5 Are you offering that?

6 MR. LANNON: Yes, just the one page I handed  
7 out here.

8 JUDGE JONES: Are you offering both 3.0 and  
9 3.1.

10 MR. LANNON: Yes, Your Honor. I'd move for  
11 admission into the evidentiary record Staff Cross  
12 Exhibit 3.0 and Staff Cross Exhibit 3.1.

13 JUDGE JONES: All right. Let's see where that  
14 goes.

15 Are there any objections to the  
16 admission of Staff Cross Exhibits 3.0 and 3.1?

17 MR. STURTEVANT: Your Honor, we have no  
18 objection to 3.0. However, we would object to the  
19 admission of 3.1 on the grounds that it is not  
20 relevant.

21 JUDGE JONES: Response to the relevancy  
22 objection?

1           MR. LANNON: Well, Your Honor, as you know,  
2 first of all, the company provided us this attachment  
3 in response to a DR.

4           JUDGE JONES: Why do you think it's relevant?

5           MR. LANNON: Your Honor, these show -- Staff  
6 Cross Exhibit 3.1 has the actual cost per call, cost  
7 per minute, the SLAP charge. All these numbers are  
8 very relevant in addressing the impact that the  
9 service company charges have upon ratepayers. We  
10 need these numbers to do comparisons with other  
11 numbers in order to demonstrate whether there is and,  
12 if there is, what the effect is of service company  
13 charges on Illinois-American ratepayers.

14          JUDGE JONES: Reply to that?

15          MR. STURTEVANT: Your Honor, I would just  
16 reiterate my earlier objection which is the SLAP  
17 program that these numbers and charges relate to is  
18 not something that's applicable in Illinois, and I  
19 believe Ms. Cooper testified to that yesterday, and  
20 so absent some indication of its applicability in the  
21 State of Illinois or to Illinois-American Water, I  
22 don't see what the relevance is.

1 JUDGE JONES: Not applicable why?

2 MR. STURTEVANT: The program, as Ms. Cooper  
3 testified yesterday, the SLAP program is not a  
4 program that is active or offered in Illinois or  
5 operative.

6 JUDGE JONES: All right. It's been stated that  
7 the SLAP program is not offered in Illinois or  
8 operative.

9 MR. LANNON: At this time at least, but even if  
10 it wasn't, we've had testimony from Illinois-American  
11 witnesses that these historical charges are relevant  
12 to the test year and the amount of rate increase  
13 they're asking for.

14 JUDGE JONES: Why is that?

15 MR. LANNON: Your Honor, Mr. Kerckhove has  
16 testified that these charges are passed on from the  
17 service company to both regulated and nonregulated  
18 affiliates. We're just trying to track these charges  
19 and see what the impact is on Illinois-American  
20 ratepayers.

21 JUDGE JONES: I'm trying to focus on the most  
22 recent argument that SLAP charges are not applicable

1 or no longer applicable in Illinois.

2 MR. LANNON: Well, they would be passed on to  
3 Illinois-American or at least portions thereof as all  
4 their historical costs have been.

5 MR. STURTEVANT: Your Honor, I disagree that  
6 there's anything at this point that would indicate  
7 that charges for a program that is not active in  
8 Illinois have been passed in Illinois. Certainly  
9 Mr. Kerckhove has not testified to as much.

10 MR. LANNON: They are historic costs, Your  
11 Honor.

12 JUDGE JONES: Costs to whom? Historic costs to  
13 whom?

14 MR. LANNON: That's exactly what we're really  
15 trying to pin down here, Your Honor.

16 JUDGE JONES: All right. Thank you for your  
17 arguments.

18 Objection is overruled. I think  
19 there's been sufficient explanation of the potential  
20 relevancy of these items in the context of the issue.  
21 This is cross. That concludes the ruling.

22 MR. STURTEVANT: Your Honor, perhaps I could



1     propose, in light of your ruling, I believe there was  
2     some discussion prior to your ruling that we would  
3     simply just admit this document in lieu of further  
4     questions regarding it. I think that would resolve  
5     the confidentiality issue. If it was filed as a  
6     confidential document, we wouldn't have to discuss it  
7     anymore, and just file it as confidential on e-Docket  
8     now that it's been admitted pursuant to your ruling.

9             MR. LANNON: And, Your Honor, I was just going  
10    to propose that.

11            JUDGE JONES: All right. Thank you.

12                   And if I wasn't clear, the effect of  
13    the ruling would be that Staff Cross Exhibits 3.0 and  
14    3.1 are admitted into the evidentiary record with 3.1  
15    being a confidential exhibit.

16                               (Whereupon Staff Cross Exhibits  
17                               3.0 and 3.1 (Confidential) were  
18                               admitted into evidence at this  
19                               time.)

20            MR. LANNON: Thank you, Your Honor, and with  
21    that, staff has no further cross of Mr. Kerckhove.

22            JUDGE JONES: Thank you.

1                   Just one moment.

2                   Off the record regarding scheduling

3   and logistics and things like that.

4                   (Whereupon an off-the-record

5                   discussion transpired at this

6                   time.)

7           JUDGE JONES:  Back on the record.

8                   I believe there are other parties with

9   cross-examination for Mr. Kerckhove.  Who would like

10   to proceed next?

11           MS. SATTER:  I'm ready.  I'd be happy to go.

12           JUDGE JONES:  All right.  Ms. Satter.

13           MS. SATTER:  Good morning, Mr. Kerckhove.  How

14   are you?

15           THE WITNESS:  Good morning, Ms. Satter.  Good.

16   Thank you.

17           MS. SATTER:  I have a few questions for you.

18                   CROSS-EXAMINATION

19   BY MS. SATTER:

20           Q.  I'm going to start in your direct

21   testimony, the revised direct testimony.

22                   You refer to the declining residential

1 commercial customer usage model to forecast test year  
2 sales. That's on page 9.

3 A. Yes.

4 Q. And you say that you used December through  
5 April usage data, correct?

6 A. Yes.

7 Q. And so you don't use November and December  
8 data, correct?

9 A. That is correct, and I believe Mr. Naumick  
10 provided testimony as to why those months were not  
11 used.

12 Q. And do you recall that he said that those  
13 months were not used because Illinois-American does  
14 bimonthly billing in some areas?

15 A. Historically that has been the case. As  
16 you may recall from prior cases, for example,  
17 Champaign and Lincoln had bimonthly billing, and  
18 before I came to American Water, there may have or  
19 may not have been other districts with less frequent  
20 billing.

21 Q. Do you know if Champaign and Lincoln still  
22 have bimonthly billing?

1           A.    They do not at this time.

2           Q.    Do you know when that bimonthly billing  
3 switched to monthly billing?

4           A.    It would have been after the order in the  
5 docket that gave the company permission to bill those  
6 customers monthly.  There would have been a  
7 transition during that time so they would have still  
8 gotten some amount of billing that was in excess of  
9 one month for a certain period of time.

10                   My recollection is sometime late in  
11 2008.

12           Q.    Would that have been in the '07 rate case,  
13 07-0507, do you recall?

14           A.    I'm thinking that's what it was.

15           Q.    Okay.  Now I wanted to ask you -- my cross  
16 exhibits, the numbers are not going to be sequential  
17 but we will catch up, so I hope you'll bear with me.

18                   In your direct testimony on page 13,  
19 you talked about the federal income tax rate?

20           A.    Among other things, yes.

21           Q.    Among other things.  Okay.

22                   I want to show you Schedule C-5.1, and

1 I've marked it as AG Cross Exhibit 16, and maybe you  
2 can take a look at that.

3 You sponsored this schedule, right?

4 A. That is correct.

5 Q. Okay. So in this schedule, you're supposed  
6 to relate procedures used to calculate the  
7 consolidated federal income tax. That's what it says  
8 on line 1, right? And you respond, and as you state  
9 in your testimony, you calculate Illinois-American's  
10 income tax obligation at a statutory federal income  
11 tax rate of 35 percent, correct?

12 A. I indicate that the federal income tax  
13 liability of Illinois-American Water Company has been  
14 calculated based upon the stand-alone companies  
15 taxable income and the statutory federal income tax  
16 rate of 35 percent.

17 Q. And then the schedule you say, the question  
18 is to identify benefits, if any, of the consolidated  
19 filing of the federal income tax return to the  
20 utility.

21 And is it correct that you respond  
22 that there has not been any direct benefit to

1 participating in the filing of a consolidated federal  
2 income tax return for Illinois-American?

3 A. That's what it states on this, yes.

4 Q. And that's correct?

5 (Pause)

6 Q. I'm sorry. Am I awaiting an answer?

7 A. Yes, you are.

8 (Pause)

9 A. It actually states though that since the  
10 utility's tax liability has been calculated as  
11 indicated above, there has not been any direct  
12 benefit to participating in the filing of a  
13 consolidated federal income tax return.

14 Q. So the only benefit would be an indirect  
15 benefit from the reduced administrative cost, is that  
16 right?

17 A. Strictly a consolidated filing, yes.

18 Q. So would that administrative benefit be  
19 that they don't actually file a separate income tax  
20 return?

21 A. I don't believe that we do file a separate  
22 federal income tax return.

1           Q.   Now, in your rebuttal on page 3, you refer  
2   to interest synchronization, and you specifically say  
3   that the revenue requirement reflects tax savings  
4   generated by the fact that interest is tax  
5   deductible. So my question is, does this apply to  
6   all interest payments or does it depend on the  
7   underlying debt?

8                     In other words, is all interest tax  
9   deductible or does it depend on the nature of the  
10  debt that the interest is payable for?

11           A.   Well, we're talking about for the rate case  
12  here.

13           Q.   Yes.

14           A.   And so we are applying the company's  
15  weighted average cost of debt times the company's  
16  rate base to determine the amount of synchronized  
17  interest.

18           Q.   More generally, more generally you testify  
19  I believe that interest is tax deductible, is that  
20  right?

21           A.   Yes.

22           Q.   Okay. And when interest is tax deductible,

1 is there a limitation based on the nature of the  
2 deficit interest is paid on?

3 In other words, can you deduct  
4 interest on your house but not interest on your car  
5 loan?

6 A. We're talking a rate case here, and for  
7 rate purposes, this is how it's calculated.

8 Q. Well, what about for tax purposes?

9 A. I don't prepare the company's tax returns.

10 Q. So you don't know?

11 A. So I don't know as far as interest what is  
12 included on the company's tax return.

13 Q. And you don't know how it would be treated?

14 A. No, I don't.

15 Q. Okay. Now, on page 17 of your rebuttal,  
16 you talk about BT and the BT costs that are allocated  
17 to American Water's market based or nonregulated  
18 affiliates, is that right?

19 A. I discuss that they are two aspects of the  
20 BT systems that are being used by the company's  
21 nonregulated utilities.

22 Q. Okay. I'd like to show you what I'm



1 marking as AG Cross Exhibit 17.

2 Now, you're one of the witnesses  
3 responsible, and this is the response to AG data  
4 request 8.68, and I want to ask you, do the  
5 numbers -- well, first of all, does this response  
6 show the AWW service company information technology  
7 department charges for 2009, 2010, 2011 for the  
8 regulated and the nonregulated affiliates?

9 A. Yes, it does.

10 Q. And this is pre-business transformation,  
11 correct?

12 A. You know, this does have both Andrew  
13 Twadelle's name on it and mine, and Andrew may be the  
14 better witness to answer questions on this.

15 Q. Okay. Now, he's appearing by telephone, so  
16 are you saying you're not sure or you're saying it  
17 includes both?

18 A. I'm saying that Mr. Twadelle would probably  
19 be the better person to answer questions on this  
20 response.

21 MR. STURTEVANT: Well, I mean, I think the  
22 document speaks for itself. Are we relating it to --

1 I think before we discuss stipulating its admission,  
2 why don't we just do that, just discuss stipulating  
3 to the admission of this and --

4 MS. SATTER: I actually wanted the record to  
5 reflect what it is, and now that there's some  
6 question about it, I think we should clear it up.

7 If this witness doesn't know, then we  
8 can either stipulate that this is service company  
9 information technology charges independent of BT or  
10 not.

11 So maybe we can come back to it  
12 because Mr. Kerckhove, you are not sure?

13 THE WITNESS: You are correct.

14 Q. Okay. Now I'd like to show you an exhibit  
15 marked as AG Cross Exhibit 15, and this is the  
16 response to AG data request 7.1 and one attachment.

17 Now, the attachments are marked  
18 confidential. They are attached to this copy so I  
19 will give them to company representatives and staff  
20 representatives if they want them, and I will file  
21 them on e-Docket appropriately.

22 Now, will you agree with me that

1 Illinois-American receives payments for allowing  
2 other entities to advertise or place equipment on its  
3 water towers or other utility properties?

4 A. Such as antenna leases?

5 Q. Yes.

6 A. Yes.

7 Q. And AG data request 7.1F asked for the  
8 total revenues that Illinois-American or its  
9 affiliates received in the test year under the  
10 various contracts or agreements, correct? That's the  
11 question.

12 A. Yes.

13 Q. And the answer says, see an attachment.

14 So the confidential attachment to the  
15 exhibit that I just showed you has those numbers and  
16 those leases, is that correct? The first attachment  
17 identifies the leases and the last page, 7.1E, has  
18 payments for 2010, 2011, and the first three months  
19 ending 3-31-12.

20 Would it be correct that the test year  
21 revenue for these leases would be basically the grand  
22 total for the three months ending 3-31-12 times four

1 to make it an annual amount? Of course, that's for  
2 '12, but assuming these are level payments.

3 A. I wouldn't say that.

4 Q. How would you use this to show what the  
5 test year amount is?

6 A. This document was prepared under my  
7 guidance and supervision, was not prepared by me. It  
8 appears that this was responding to 7.1E. I'm not  
9 sure that this provides an amount for the test year.

10 Q. But could the test year revenues be  
11 deduced?

12 A. I'm not sure.

13 Q. Does the company, has the company included  
14 revenues from these leases for other equipment use in  
15 revenues for the test year?

16 A. One-half of revenues that are received from  
17 tenant leases are included in the rate case for the  
18 test year.

19 Q. And what happens to the other half?

20 A. The other half is below the line.

21 Q. And why is that?

22 A. I believe that there has been Commission

1 precedence or Commission orders allowing us to share  
2 these costs or, excuse me, these revenues 50/50 above  
3 and below the line.

4 Q. Is there a particular request for that that  
5 the company had?

6 A. I don't recall the docket number for that.

7 Q. Do you recall the year?

8 A. No, I do not.

9 Q. Do you recall if it was a specific  
10 Illinois-American request or if you're following  
11 precedent from another utility?

12 A. I do not know.

13 Q. Now, the equipment that these contracts  
14 relate to are in rate base, isn't that correct?

15 A. Placement of equipment, that wouldn't be  
16 our equipment.

17 Q. But the property on which the equipment is  
18 placed?

19 A. Such as water towers or other IAWC  
20 property?

21 Q. Right.

22 A. Yes.

1           Q.    That would be in Illinois-American's rate  
2 base, correct?

3           A.    To the extent if it's not fully  
4 depreciated, yes.

5           Q.    Right.

6                    Do you know where that half amount is  
7 indicated in your filing, in your revenues? Is it  
8 included in other revenues?

9           A.    I believe so. I would have to take a look  
10 at the applicable E schedules.

11          Q.    Do you believe they would be E schedules or  
12 C?

13          A.    Yes.

14          Q.    E schedules?

15          A.    The E schedule would show specifically  
16 where they are because the C schedule is just a  
17 revenue amount.

18          Q.    So a review of the E schedule should show  
19 what the total amount is, and then we understand that  
20 the total amount added to revenues is half what  
21 Illinois receives under these contracts?

22          A.    Yes. I'm not sure we have it quite in that

1 detail for you in the E schedules. I would have to  
2 check on that for you.

3 Q. Okay. If you would. Maybe we'll have a  
4 break and you could check it and then get back to us.

5 All right. I was wanting to ask you,  
6 in your testimony you refer to the multifamily,  
7 number of multifamily dwellings in your service  
8 territory.

9 I'm trying to see if that's in your  
10 rebuttal or your surrebuttal.

11 Do you recall?

12 A. Yes. It's in my direct on page 22.

13 Q. Oh, it's your direct. Yes.

14 You say currently there are 3,800  
15 multifamily customers classified as residential  
16 across the state, almost half of them residing in the  
17 Champaign district. And then you say 900 multifamily  
18 customers are classified as nonresidential.

19 So my question is, do you recall the  
20 last rate case, 09-0319, the question of how  
21 multifamily customers would be treated was an issue,  
22 was addressed by the Commission?

1                   And if you'd like, I could refresh  
2   your recollection by showing you a page, some pages  
3   from that, from the order.

4           A.    I believe I discuss that on page 21.

5           JUDGE JONES:   Excuse me just a minute.   I don't  
6   know if we lost our connection or not.

7           MR. LANNON:   You know, Your Honor, there may  
8   have been more than Nicole on that line.

9           MS. SATTER:   Nicole, are you still with us?

10          MS. LUCKEY:   I'm here.   I lost you guys for a  
11   couple minutes.

12          JUDGE JONES:   Okay.   Very good.

13          Q.    BY MS. SATTER:   My question is in the order  
14   in 09-0319 regarding multi-unit residential building  
15   classification, the Commission said, "IAWC asserts  
16   that these indicia, meter size and volume of  
17   consumption, do not lead to the conclusion that the  
18   identified structures are indeed master metered  
19   multifamily residents.   IAWC has reviewed its records  
20   and confirmed that only two multifamily customers  
21   outside of Chicago Metro are classified as  
22   residential."



1                   So my question is, in 2009, the  
2   company identified only two multifamily customers  
3   outside Chicago Metro classified as residential, and  
4   yet in this case, you say there are 3,800 with most  
5   of them or with almost half of them in the Champaign  
6   district.

7                   So what happened between the two  
8   multifamily customers outside of Chicago Metro and  
9   the almost half of 3,800 in the Champaign district  
10 alone?

11           A.   May I see that language you were referring  
12 to?

13                               (Whereupon Ms. Satter handed a  
14                               document to the witness.)

15           Q.   It's underlined.

16                               Was there an error in the last case?

17                               (Pause)

18           A.   I did not testify to this issue in the last  
19 case so I really can't answer that question.

20           Q.   Okay. You also say that, you talk about  
21 whether any multifamily dwellings outside of Chicago  
22 Metro have asked to be reclassified as

1 nonresidential, and you say no one has made that  
2 request.

3 A. That is correct.

4 Q. So can you describe the notice that was  
5 provided to multifamily customers that they have the  
6 option?

7 A. I'm not sure we were required to provide  
8 any such notice or to provide such notice.

9 Q. So, in fact, did the company provide any  
10 notice?

11 A. I'm not aware of any.

12 Q. Okay. Thank you.

13 Now I'd like to show you some other  
14 data requests that I have some questions about, and  
15 these are data requests that your name is on.

16 So starting with the response to AG  
17 data request 8.12...let's make sure I have that  
18 handy. And then this would be No. 16.

19 Now, several of these data requests  
20 have confidential attachments so we will file them  
21 appropriately and we will distribute them to the  
22 company, staff and the judge.

1 JUDGE JONES: Do you already have a 16?

2 MR. STURTEVANT: Yes.

3 MS. SATTER: Are we on 17? I'm sorry.

4 MR. STURTEVANT: There's already a 17.

5 MS. SATTER: I'm on 18 then. I'm sorry. The

6 response to AG data request 8.12 will be AG Cross

7 Exhibit 18.

8 Q. Now, Mr. Kerckhove, does this response list

9 the business transformation costs at the service

10 company and the corresponding amounts on the

11 utility's books for January 2011 through March 2012?

12 A. You could have given it to me in bigger

13 font.

14 Q. I know it's a killer on the eyes. You need

15 a magnifying glass or cheaters.

16 (Pause)

17 A. Bear with me a moment, please.

18 Q. You could actually look at the question.

19 It's a bigger font.

20 (Pause)

21 A. Could you please read back the question?

22

1 (The reporter read back the last  
2 question.)

3 A. This shows the amount of costs incurred for  
4 business transformation and the amount then that is  
5 recorded on Illinois' books.

6 Q. So the first line is the amount on the  
7 service company's books, is that right?

8 A. No. The service company amount is zero.

9 Q. Okay. So when it says at the top on the  
10 left, service company and then there's activity and  
11 there's a line of numbers...

12 A. That shows the activity for each of the  
13 months.

14 Q. Okay. So that would be the amount that was  
15 billed for that activity or the costs incurred for  
16 the activity for that month?

17 A. Yes.

18 Q. And so that amount would then be allocated  
19 to the state utility affiliates, correct?

20 A. Yes.

21 Q. And then the second block of numbers shows  
22 the amounts that were then passed along to the state

1     utilities, correct?

2             A.    Yes.

3             Q.    And you'll agree with me that the total  
4     amount being the last line in that second block for  
5     each month for the state utility books is higher than  
6     the service company activity for each month, is that  
7     right?

8                             (Pause)

9             A.    Yes, and it does include some AFUDC.

10            Q.    Yeah. I was going to ask you what accounts  
11     for that difference. AFUDC is part of it, correct?

12            A.    Yes.

13            Q.    Okay. And then there are also O&M costs  
14     associated?

15            A.    Yes.

16            Q.    Do you know what the O&M costs represent?

17            A.    No, I do not.

18            Q.    Do you know whether Illinois-American is  
19     attempting to defer any of the O&M amounts that  
20     occurred prior to the start of the future test year  
21     in relation to the BT project?

22                             (Pause)

1           Q.    Maybe I can draw your attention to the  
2   column November '11, the negative figure under O&M.  
3   Does that help you respond to the question?

4           A.    Yes.  Illinois has taken the position that  
5   we are requesting capital treatment of the amounts  
6   for business transformation in this case, and so  
7   while amounts were originally recorded as O&M, they  
8   were reclassified to construction work in progress.

9           Q.    Construction work in progress.

10                       So that would be what's abbreviated  
11   here, CWIP?

12          A.    CWIP.

13          Q.    Okay.  So are you reclassifying the O&M to  
14   become a capital cost that then accrues CWIP?  How  
15   does that work?

16          A.    No.  These will be costs for items that may  
17   be under -- these will be items that could be things  
18   such as data cleansing, etc., that could in a  
19   nonregulated instance be expensed.

20          Q.    Did you say data cleansing?

21          A.    Yes.

22          Q.    Okay.  So these are items that could be

1     expensed in a nonregulated setting, but you're  
2     treating them as capital costs in a regulated  
3     setting?

4             A.    Yes.

5             Q.    You'd like to treat them as capital costs?

6             A.    Because the utility, the Commission could  
7     allow us to treat these costs as capital.

8             Q.    Okay.  It could go either way, is that  
9     right?  It could be treated as capital; it could be  
10    treated as expense?

11            A.    That's up to the Commission to decide.

12            Q.    Do you know how much O&M would then be  
13    included in the capital costs for BT?

14            A.    Well, we're taking the position that  
15    they're all capital so I would say zero.

16            Q.    What about the functions that would  
17    ordinarily be seen as O&M, do you know how much money  
18    associated with those functions would be in your  
19    capital amount?

20            A.    What do you mean by functions?  Can you  
21    clarify a little bit?

22            Q.    Well, how do you define operations and

1 maintenance expense? What categories of activity  
2 fall within that category?

3 A. They would be items that relate to a  
4 current period and would not benefit future periods.

5 Q. So you're defining it -- doesn't that kind  
6 of become a circular definition because if you say,  
7 well, I'm defining it as capital costs, then I'm, by  
8 definition, not defining it as O&M?

9 A. You asked me to define O&M expenses.

10 Q. And that's how you would do it?

11 A. You asked me to define O&M expenses and I  
12 did.

13 Q. Okay. So you don't know what the  
14 underlying activity is that's then classified as  
15 either an O&M expense or a capital expense?

16 A. There are a lot of activities going on in  
17 business transformation.

18 Q. And you haven't made that distinction as to  
19 what activity gives rise to what cost?

20 A. We made the distinction that they are all  
21 capital.

22 Q. Do you know how much O&M Illinois-American



1 is intending or requesting to defer in its total  
2 capital request? Do you know how much?

3 MR. STURTEVANT: I'm going to object. I don't  
4 know that he's testified that there is any deferral  
5 going on.

6 MS. SATTER: Well, I'm trying to find out if  
7 there is. If there isn't, then just tell me there  
8 isn't, or if you don't know, tell me you don't know.  
9 I truly -- he might not have testified to it and  
10 that's why I'm asking the question.

11 JUDGE JONES: Can I have the question read  
12 back, Ms. Reporter?

13 (The reporter read back the last  
14 question.)

15 JUDGE JONES: It's kind of borderline there. I  
16 think it does contain an assumption in there.

17 How much, if any, is a slightly  
18 different question. It would be acceptable if the  
19 question is worded as such.

20 The objection is sustained without  
21 prejudice, of course, to rephrasing it.

22 MS. SATTER: Can I just accept your

1       modification to it? I'm happy to do that.

2               JUDGE JONES: Well...

3               MR. STURTEVANT: That's fine.

4               JUDGE JONES: Are you able to give an answer or

5       do you need the question back?

6               THE WITNESS: Please.

7               MS. SATTER: I'll just reask the question.

8               Q. Do you know whether Illinois-American is

9       requesting to defer any charges as part of its BT

10       capital cost?

11              A. We are recording these as capital by

12       putting them in construction work in progress, so I

13       don't see any deferral of our O&M expense.

14              Q. Do you know if the service company records

15       AFUDC on the BT amounts included in the schedule?

16              A. I don't believe so.

17              Q. Now, on the utility books section of the

18       attachment, there is a line for regulatory asset

19       AFUDC gross-up.

20                      What's the basis for that figure in

21       that treatment?

22              A. That would be each state's AFUDC applicable

1 to the amount in construction work in progress.

2 Q. Does Illinois have that?

3 A. Yes.

4 Q. Do you know what the AFUDC rate is as we're  
5 sitting here?

6 A. No, I do not.

7 Q. Do you know what it's based on, the  
8 formula?

9 A. It's a thing called the FERC formula.

10 Q. The FERC formula?

11 A. Yes.

12 Q. And did the company request permission from  
13 the Commission to treat these costs as a regulatory  
14 asset entitled to AFUDC?

15 A. We are treating these costs as construction  
16 work in progress where you would record AFUDC because  
17 this is a multi-period project, and so therefore, you  
18 would accrue AFUDC on it just like you would a water  
19 treatment facility until it goes into service.

20 Q. So there's a CWIP entry and a regulatory  
21 asset AFUDC gross-up factor. Those are different?

22 A. I don't recall the specific calculations to

1 arrive at that.

2 Q. But you see there's two entries?

3 A. Two entries?

4 Q. Under Illinois-American business  
5 transformation, there's CWIP and then O&M and then  
6 regulatory asset AFUDC, so there are amounts for both  
7 CWIP and for the AFUDC gross-up?

8 A. The CWIP amount does not include the AFUDC.

9 MR. STURTEVANT: Sue, are we be going on for a  
10 while because he might want a break if we're going to  
11 be continuing on for some period.

12 JUDGE JONES: Off the record regarding  
13 scheduling.

14 (Whereupon an off-the-record  
15 discussion transpired at this  
16 time.)

17 JUDGE JONES: Back on the record.

18 Q. BY MS. SATTER: Is it correct that the  
19 business transformation related costs are originally  
20 recorded by the service company as shown on the first  
21 line and then are transferred from the service  
22 company to the utility for payment? Is that how it's

1     done?

2             A.     The amounts are paid for by the service  
3     company and then charged through the service company  
4     bill to each of the regulated utilities.

5             Q.     Okay.  Now I'm going to show you the  
6     response to AG 8.13 and to 8.14, and those numbers  
7     will be 19 and 20.

8                     So the response to AG 8.14 is 20, and  
9     the response to AG 8.13 is 19.

10                    Again, these are confidential  
11     attachments, but the cover page is not confidential.

12                    Again, this is a killer on the eyes,  
13     but I'm going to ask you a question and then let you  
14     take a minute to look and see if you can just  
15     confirm.

16             MR. STURTEVANT:  There's no way to get a more  
17     legible version of this?

18             MS. SATTER:  You know, this is how it was  
19     served, and we were reluctant to make a change on how  
20     it was served, but we will provide it electronically,  
21     and when we provide it electronically, you can make  
22     it larger.

1                   The only question really that I have  
2   on this is you'll see that there is no AFUDC gross-up  
3   on the attachments to these two data requests, and my  
4   question to you is if you know why there is no AFUDC  
5   gross-up on the attachments to 8.13 and 8.14. That's  
6   the only question.

7           A.    No, I do not.

8           Q.    And do you know if the BT ERP O&M is a  
9   nonrecurrent cost or a recurrent cost?

10          MR. STURTEVANT: I'm sorry. Which attachment  
11   and where are we?

12          MS. SATTER: That would be on --

13          MR. STURTEVANT: Or which cross exhibit?

14          MS. SATTER: I think either one. Using 8.13,  
15   if you look under the state utility books under  
16   activity, there's ERP, and similarly under  
17   Illinois-American business transformation under  
18   activity, there's ERP, and there's no O&M listed  
19   there.

20          MR. STURTEVANT: It's the attachment to 8.13.

21          MS. SATTER: Yes.

22          MR. STURTEVANT: Under Illinois-American.

1 MS. SATTER: Yeah. You'll see the first line  
2 is ERP. Actually, under ERP, CIS, and EAM, there is  
3 no O&M.

4 So my question is, are there  
5 nonrecurring costs?

6 MR. STURTEVANT: Sorry, Sue. I hate to belabor  
7 this, but I'm looking under ERP, CIS, and EAM under  
8 Illinois-American 8.13.

9 MS. SATTER: There's a blank.

10 MR. STURTEVANT: I'm seeing an O&M line with  
11 numbers next to it, so I'm not following you.

12 MS. SATTER: Which one are you looking at?

13 MR. STURTEVANT: I'm looking at 8.13. There's  
14 an ERP and then underneath that is O&M somewhere.

15 MS. SATTER: Oh, you're right. I misread that.  
16 I'm sorry.

17 Q. All right. So looking at March, looking at  
18 the attachment to 8.14 which is AG Cross Exhibit 20,  
19 if you start in March of 2013, under ERP, there is a  
20 zero of CWIP and O&M, is that right?

21 MR. STURTEVANT: Under the Illinois-American?

22 MS. SATTER: Under the Illinois-American.

1           Q.    So my question is do you know why there is  
2   zero O&M for that period?

3           A.    These are budgeted numbers, and for those  
4   months beginning in March, I don't believe there are  
5   any more, as we are requesting in this case, capital  
6   items for the ERP system since the system was going  
7   into service by August of 2012.

8           Q.    So the O&M up to March 2013, are those  
9   nonrecurring costs?

10          A.    Right.  Those are the ones that we are  
11   including in capital, we're requesting them in  
12   capital in this case.

13          Q.    So those are the ones you are rolling into  
14   the capital costs, and then after that date, you  
15   don't anticipate additional O&M relative to the BT  
16   system?

17          A.    We don't anticipate any capital related to  
18   ERP portion of BT.

19          Q.    So you're not classifying or you're not  
20   treating those costs as capital after that month?

21          A.    There are obviously certain systems  
22   maintenance costs that are O&M but they are not part



1 of this BT budget.

2 Q. Okay. And then for the CIS and EAM  
3 systems, that seems to kick in in November of 2013?  
4 That's when it gets zeroed out, is that right? And  
5 do you think that corresponds with --

6 MR. STURTEVANT: Are you asking that when the  
7 O&M gets zeroed out or is that when something else  
8 gets zeroed out?

9 MS. SATTER: Is that when the O&M gets zeroed  
10 out. Thank you.

11 MR. STURTEVANT: I don't think the O&M does get  
12 zeroed out in the ERP or CIS.

13 MS. SATTER: Starting November? Oh, I'm sorry.  
14 You're correct. So the CWIP gets zeroed out.

15 THE WITNESS: Again, these are budgeted  
16 numbers, and at the time the budget was prepared, we  
17 weren't expecting to record them as capital, and so  
18 as you notice the actuals, then we did put them as  
19 capital, and so therefore, going forward, we do not  
20 have O&M.

21 Q. All right. And then CWIP is no longer  
22 accrued because the underlying asset is in place, is

1 in operation?

2 A. For those amounts that were originally  
3 budgeted as capital, yes, and then those amounts that  
4 are originally budgeted as O&M that we actually are  
5 proposing capital treatment are going into service in  
6 each of these months.

7 Q. So for the CIS and EAM, you actually do  
8 continue to record O&M expense even after the systems  
9 are in operation?

10 A. No.

11 Q. Projected?

12 A. We put these in as capital in these months,  
13 and they're not reflected in this case since they  
14 occur outside of the test year.

15 MS. SATTER: Okay. Thank you. Thank you for  
16 that explanation.

17 So those are the questions we have  
18 relative to this subject and these exhibits so this  
19 could be a good time to stop.

20 JUDGE JONES: Off the record.

21

22

1 (Whereupon an off-the-record  
2 discussion transpired at this  
3 time.)

4 JUDGE ONES: Back on the record.

5 We hereby break for lunch until 1:35.

6 (Whereupon the lunch recess was  
7 taken from 12:35 to 1:35 p.m.)

8 JUDGE JONES: Back on the record.

9 Mr. Kerckhove is still on the stand.

10 I believe Ms. Satter's cross with him will be  
11 finished at a later point, and Mr. Robertson will  
12 conduct his cross at this time? Is that what's been  
13 worked out?

14 MR. STURTEVANT: That's correct.

15 MR. REICHART: That's correct, Your Honor.

16 JUDGE JONES: Anything else regarding that?

17 Very good. Mr. Robertson?

18 MR. ROBERTSON: Thank you, Your Honor.

19 What I've given everybody is what I'd  
20 like to mark as IIWC Cross Exhibit No. 2 which is a  
21 schematic that was provided in response to IIWC data  
22 request 4.1.

1 CROSS-EXAMINATION

2 BY MR. ROBERTSON:

3 Q. Mr. Kerckhove, is this a schematic showing  
4 IAW CSR distribution system serving Air Products?

5 A. Yes, in response to IAWC 4.1.

6 Q. Thank you.

7 On page 18 of your surrebuttal  
8 testimony, you state there's a misunderstanding in  
9 your rebuttal testimony concerning consolidated  
10 billing, is that correct?

11 It's actually the last paragraph in  
12 your testimony.

13 A. I believe you must be looking at one of my  
14 older versions.

15 Q. Which page?

16 A. On page 22 of the revised.

17 Q. Okay. On page 22, you state that there's a  
18 misunderstanding in your rebuttal testimony  
19 concerning consolidated billing, is that correct?

20 A. Regarding the combination of readings from  
21 meters.

22 Q. Correct.

1           A.    Yes.

2           Q.    And that same page 22, you state, if  
3   there's only one distribution system behind a  
4   customer meter, then the readings of the two meters  
5   can be combined for consolidated billing in  
6   Illinois-American's declining block volumetric  
7   charges, is that correct?

8           A.    You must be paraphrasing that as a quote of  
9   my testimony.

10          Q.    Correct, yes, paraphrasing.

11          A.    But if there is a common distribution  
12   system behind multiple meters, then the readings of  
13   the two meters can be combined, so that way, if Air  
14   Products, for example, has multiple rate blocks, the  
15   two readings can be combined so both meters don't  
16   have to go through the rate blocks.

17          Q.    And would you agree that a customer with an  
18   interconnected distribution system behind two meters  
19   would pay less to Illinois-American based on the  
20   piping configuration behind those meters than it  
21   would pay to Illinois-American if the customer or  
22   distribution piping behind the meters was not

1 interconnected?

2 A. Yes.

3 Q. I'd like to run you through a quick

4 hypothetical. In this hypothetical, the customer is

5 served as a single premise, which is manufacturing

6 facility, served from two meters off the same

7 Illinois-American distribution main, and the meters

8 for the manufacturing plant are not interconnected by

9 the customer's internal water distribution system.

10 Is that okay? Does that make sense?

11 A. Sure.

12 Q. Okay. If this particular customer has two

13 meters served from the same distribution main, the

14 does the customer's peak day and hour demand on the

15 Illinois-American system change depending on whether

16 or not the distribution system behind the meters is

17 or is not interconnected?

18 A. I can't answer that question.

19 Q. Would you agree that the demands on the

20 transmission mains necessary to bring water to that

21 customer do not change if its distribution system

22 behind the meters is interconnected?

1           A.    I think that's more of an operational  
2 question rather than a rates type question.

3           Q.    Okay.  Last question.  Would you agree that  
4 the cost of serving that single hypothetical customer  
5 premises from two meters on the same  
6 Illinois-American distribution main does not vary  
7 based on the configuration of the customer's  
8 distribution system behind the meters?

9           A.    I'm really not comfortable answering that  
10 question because I think it's more in the area of  
11 expertise of someone like Paul Herbert who performs  
12 cost of service studies, and again, that's outside my  
13 area of expertise.

14          Q.    So you don't actually know if the cost  
15 varies then depending on whether it was consolidated  
16 behind the meter or not?

17          A.    I'm sure there are a number of factors that  
18 go into determining the cost of service for  
19 customers, and I believe that that would be better  
20 answered by somebody with Mr. Herbert's credentials.

21          MR. ROBERTSON:  Okay.  I have no further  
22 questions.

1           JUDGE JONES: Did you want to do something with  
2   that exhibit?

3           MR. ROBERTSON: Yes. Sorry. I'd like to enter  
4   that exhibit.

5           JUDGE JONES: Any objection to the admission of  
6   IIWC Cross Exhibit 2?

7           MR. STURTEVANT: No objection, Your Honor.

8           JUDGE JONES: Let the record show no objection.  
9   IIWC Cross Exhibit No. 2 is admitted into the  
10   evidentiary record at this time.

11                           (Whereupon IIWC Cross Exhibit 2  
12                           was admitted into evidence at  
13                           this time.)

14           MR. ROBERTSON: Thank you, Your Honor.

15           JUDGE JONES: Thank you, Mr. Robertson.

16           MR. ALPERIN: I just have what might only be  
17   one question of this witness.

18           JUDGE JONES: Off the record.

19                           (Whereupon an off-the-record  
20                           discussion transpired at this  
21                           time.)

22           JUDGE JONES: Back on the record.



1                   My understanding is Mr. Kerckhove will  
2   be pulled back off the stand and another witness put  
3   on for witness convenience, is that right?

4           MR. LANNON:   That's correct, Your Honor.

5                   (Witness excused.)

6           JUDGE JONES:   Staff witness?

7           MR. LANNON:   Yes, Your Honor.

8                   With your permission, staff would call  
9   Mr. David Sackett to the stand.

10          JUDGE JONES:   Mr. Sackett?

11                   (Whereupon the witness was sworn  
12                   by Judge Jones.)

13          JUDGE JONES:   Thank you.   Have a seat.

14                   DAVID SACKETT

15   called as a witness herein, on behalf of staff of the  
16   Illinois Commerce Commission, having been first duly  
17   sworn on his oath, was examined and testified as  
18   follows:

19                   DIRECT EXAMINATION

20   BY MR. LANNON:

21           Q.   Can you please state your full name for the  
22   record spelling your last name?

1           A.    David Sackett (S-a-c-k-e-t-t).

2           Q.    And who is your employer and what is your  
3 business address?

4           A.    I'm employed by the Illinois Commerce  
5 Commission.  My business address is 527 East Capitol  
6 Avenue, Springfield, Illinois  62701.

7           Q.    And what's your position at the Illinois  
8 Commerce Commission?

9           A.    I'm an economic analyst in the policy  
10 program of the Policy Division.

11          Q.    And did you prepare written prefiled  
12 testimony with various attachments for submittal in  
13 this proceeding?

14          A.    Yes, I did.

15          Q.    Do you have before you a document marked  
16 for identification as ICC Staff Exhibit 7.0  
17 consisting of a cover page, table of contents, 17  
18 pages of narrative testimony, and attachments A  
19 through E with attachment D being confidential?

20          A.    Yes, I do.

21          Q.    Do you have before you -- well, excuse me.  
22 Let me back up.

1                   Do you have any corrections to make to  
2   ICC Staff Exhibit 7.0?

3           A.   No, I do not.

4           Q.   Okay. Do you have before you a document  
5   which has been marked for identification as ICC Staff  
6   Exhibit 15.0 consisting of a cover page, 50 pages of  
7   narrative testimony, and attachments A through zero?

8           A.   A through O.

9           Q.   Excuse me; A through O.

10          A.   Yes.

11          Q.   And that's titled "The Rebuttal Testimony  
12   of David Sackett," and it's in both confidential and  
13   public versions, is that right?

14          A.   That's correct.

15          Q.   Do you have any corrections to make to ICC  
16   Staff Exhibit 15.0?

17          A.   The cover page reflects an incorrect date  
18   of filing. It was April 27th it was filed, not the  
19   26th.

20                   I have no further corrections.

21          Q.   Is the information contained in Staff  
22   Exhibits 7.0 and 15.0 true and correct to the best of

1     your knowledge?

2             A.    Yes, it is.

3             Q.    And if I were to ask you the same questions  
4     contained therein in both Exhibits 7.0 and 15.0,  
5     would your response be the same today?

6             A.    Yes.

7             MR. LANNON:   Thank you.

8                     Your Honor, Mr. Sackett is available  
9     for cross, and I'd like to move for admission into  
10    evidence Staff Exhibits 7.0, attachments A through E,  
11    Staff Exhibit 15.0, attachments A through O.

12            JUDGE JONES:   Thank you.

13                     Any objections?

14            MR. WHITT:   Just to be clear, Your Honor, we  
15    don't have any objections at this time but we may  
16    depending on how the cross goes.

17            MR. LANNON:   I can pick that up after cross,  
18    Your Honor.

19            JUDGE JONES:   All right.   We'll hold off on a  
20    ruling on the admission of those exhibits.

21                     It appears that Illinois-American  
22    Water Company has cross for Mr. Sackett, is that

1 correct?

2 MR. WHITT: We do, Your Honor.

3 JUDGE JONES: Mr. Whitt?

4 MR. WHITT: Good afternoon, Mr. Sackett.

5 THE WITNESS: Good afternoon.

6 MR. WHITT: We introduced ourselves yesterday.

7 I'm Mark Whitt, and I have some questions about your  
8 testimony.

9 CROSS-EXAMINATION

10 BY MR. WHITT:

11 Q. I guess I'll just start by asking you what  
12 piqued your interest in American Water Resources  
13 products and services?

14 MR. LANNON: Objection, Your Honor. I don't  
15 see the relevance in that question.

16 JUDGE JONES: This is cross. I think that's  
17 fair if the witness can answer it; if not, he can say  
18 so.

19 THE WITNESS: In the course of my employment  
20 here with the Commission, I've worked on various  
21 affiliate issues of various resource type scenarios  
22 where there are products being offered by an

1     unregulated affiliate that are in some way assisted  
2     by a regulated utility, and I've testified on those  
3     in previous proceedings.

4             Q.    BY MR. WHITT:  Are you aware of any  
5     complaints to the Commission by any Illinois-American  
6     customers about AWR?

7             A.    No.

8             Q.    Are you aware of any complaints to the  
9     Commission by AWR customers?

10            A.    No.

11            Q.    Are you aware of any complaints to the  
12    Commission by competitors of AWR?

13            A.    No, I'm not.

14            Q.    Have you received any complaints or  
15    inquiries from other Commission staff members about  
16    AWR?

17            A.    No.

18            Q.    Did someone direct you to look into AWR and  
19    what, if any, relationship it had with  
20    Illinois-American?

21            A.    I think my boss assigned me to this portion  
22    of the case after some initial investigation that I

1     had done.

2             Q.     What was that initial investigation?

3             A.     Looking --

4             MR. LANNON:   Your Honor, I'm going to object to  
5     this line of questioning.   He's asking the witness to  
6     reveal...it's not attorney-client work product, but  
7     it's how we operate behind the scenes here at the  
8     Illinois Commerce Commission.

9                     Now, Mr. Sackett has filed two pieces  
10    of testimony.   I don't think he has to go back into  
11    how he came to file testimony.   He was assigned to  
12    it.

13            JUDGE JONES:   Response?

14            MR. WHITT:   I asked him whether he was directed  
15    to look into AWR, and the answer was he was assigned  
16    to the case, and I'm just trying to figure out how  
17    this investigation that was conducted came to be.

18            JUDGE JONES:   Is he testifying as an expert?

19            MR. LANNON:   Yes, he is.

20            JUDGE JONES:   Well, I mean, I think we have to  
21    give counsel some leeway on cross.   Until we get to a  
22    point where it's kind of gone to another level in

1 terms of some sort of situation where that kind of  
2 information is somehow confidential or protected,  
3 then you can bring that up. I hadn't really heard  
4 that.

5 Is there a question pending?

6 MR. WHITT: Could you read the last question?

7 (The reporter read back the last  
8 question: "What was that  
9 initial investigation?")

10 THE WITNESS: Okay. I had become aware of  
11 American Water Resources and its affiliation with  
12 Illinois-American prior to this case during my work  
13 on some other cases. Part of the information I  
14 provided for the Commission in some of the other  
15 cases were similar type products or services that  
16 were offered in other areas.

17 I began investigating Gas Line Comfort  
18 Guard which is a Nicor services product. That was my  
19 initial case where I became aware of some of the  
20 issues regarding this type of product, and from  
21 there, I worked through some other cases and was  
22 ultimately asked to provide testimony in an issue



1 with Utilities, Inc. and their service in conjunction  
2 with a HomeServe USA product, and that set of  
3 products is similar to American Water Resources water  
4 line protection plan.

5                   So as part of that investigation in  
6 those cases, I looked into some of the details to see  
7 what similarities there were and differences between  
8 the various cases and whether or not any information  
9 in this situation would be relevant to those  
10 proceedings, and as a result of that, I was aware of  
11 the relationship between the affiliates and the  
12 various services that may or may not have been  
13 provided, and I was directed to look into that once  
14 Illinois-American filed its water case.

15           Q. And directed by whom?

16           A. My boss?

17           Q. Who was he or she?

18           A. Tom Kennedy.

19           Q. When did you start looking into the  
20 affiliate relations issues in this case?

21           A. I don't have a date. It was shortly after  
22 the direct testimony was filed by the company.

1           Q.    I have some questions about your  
2   interactions with the Alton call center, and I'll  
3   call it the Alton call center as shorthand for the  
4   call center operated by American Water Works Service  
5   Company.  Are you okay with my shorthand?  Will you  
6   understand my questions if I refer to it like that?

7           A.    Yes, I will.  There may be some questions  
8   which you'll need to differentiate whether we're  
9   talking about the portion of that facility that is  
10  used for American Water Resources or the portion that  
11  is used by the service company itself.

12          Q.    Let's start with a call that you made to  
13  the Alton call center on February 7th.

14                   I guess before we get into details on  
15  that particular call, have you made any other calls  
16  to the call center in relation to your work for this  
17  case?

18          A.    Just so that I'm clear about which call  
19  you're referring to, was it a call that you asked me  
20  about and then I provided discovery response on?

21          Q.    Yes.  If you have the response to 4.04  
22  handy, and I will have copies of all the DR

1       responses. We had a mixup in our prior set so that's  
2       being done right now.

3           A.    Okay. So, yes. Your question is whether  
4       or not this is the only call that I made to the Alton  
5       call center?

6           Q.    Yes.

7           A.    Okay. I did not call the Alton call center  
8       directly. I called American Water Resources, and I  
9       also called Illinois-American, and when I made the  
10      call, I did not know whether or not the call was  
11      going to be routed to Alton or not. AWR has claimed  
12      that all of their calls are handled by their reps in  
13      Alton.

14                   I also, like I said, called the  
15      utility's 1-800 number and that call may have been  
16      forwarded to Alton or Pensacola.

17           Q.    Well, how many times did you dial the phone  
18      to talk to someone there at the water entity?

19           A.    Half a dozen times.

20           Q.    So you had more conversations or you placed  
21      more calls that are reflected in the response to  
22      4.04?

1           MR. LANNON: Your Honor, I need a  
2 clarification.

3                   I'm not sure what calls you're talking  
4 about. It might be that Mr. Sackett has called  
5 Illinois-American employees regarding DRs, something  
6 like that, to help move the process along, and I'm  
7 not sure if your question includes those type of  
8 calls.

9           JUDGE JONES: Well, this is cross. Let's let  
10 the witness answer that, and we'll give him leeway in  
11 providing his answer.

12          MR. WHITT: Why don't we back up.

13                   Do you have your response to 1.19?

14          JUDGE JONES: What's the reference there?

15          MR. WHITT: IAWC-ICC 1.19.

16                   May I approach, Your Honor?

17          JUDGE JONES: Are you going to be asking  
18 about -- do you have the copies now?

19          MR. WHITT: I do. This is all of the  
20 responses. There are some submissions with the  
21 attachments which are being addressed right now, and  
22 I will give you a substitute copy, but for purposes

1 of my questions right now, I think you can use that,  
2 and the DRs and responses are in numerical order.

3 JUDGE JONES: Does Mr. Lannon have this and  
4 others?

5 MR. LANNON: No. I'm not even sure if the  
6 witness does. I know Mr. Sackett has some DR  
7 responses up there. I'm not sure --

8 THE WITNESS: That I made?

9 MR. LANNON: Yes, I believe that's --

10 THE WITNESS: I have all of the responses that  
11 I made.

12 MR. LANNON: Okay. Then maybe I should use  
13 that.

14 Q. BY MR. WHITT: Going back to, in your  
15 response, to IAWC-ICC 1.19, you refer to a telephone  
16 call, and I guess just to paraphrase your response,  
17 it says that you called IAWC and were transferred to  
18 AWR upon asking for information on WLPP, which I  
19 assume you mean water line protection program?

20 A. Yes.

21 Q. And in 4.04, there was a follow-up to your  
22 response that asked for additional details about your

1       telephone call.

2               A.    Yes.

3               Q.    And you give details including the date of  
4       February 7, 2012.

5                       My question is did you make any other  
6       calls like this one?

7               A.    Certainly.

8               Q.    How many?

9               A.    Like I said, a half a dozen perhaps.

10              Q.    Okay. Did you make notes of any of those  
11       calls?

12              A.    Some of them yes.

13              Q.    How many of them?

14              A.    I don't have the notes with me, but  
15       sometimes I took notes if particular items came up,  
16       issues were revealed. Other times I just listened to  
17       the process.

18              Q.    Okay. Let's focus on the February 7th  
19       call.

20                       What was the purpose of your call?

21              A.    That particular call I was trying to figure  
22       out two different things. One, just more details

1     regarding the transfer process, whether or not they  
2     have that.

3                     I was also trying to determine whether  
4     or not the customer service representative, the CSR  
5     that was an AWW SC employee would indicate that  
6     Illinois-American had the program, whether or not  
7     WLPP was a program offered by Illinois-American, or  
8     whether or not he would correct that misunderstanding  
9     that he may have perceived by my question that would,  
10    in fact, indicate that it was offered by AWR.

11                    He chose to use the term that I would  
12    be transferred to another department which, since I  
13    called Illinois-American's toll-free number, I took  
14    it to be an admission from him that the other  
15    department he was referring to was another department  
16    in Illinois-American Water Company.

17            Q.    Had you made any calls prior to  
18    February 7th or was this your first one?

19            A.    I had made calls prior to that.

20            Q.    Okay. Had you served any discovery to the  
21    company asking about details to the call center prior  
22    to February 7th?

1           A.    I'm not certain.

2           Q.    Okay.  So on February 7th you called, your  
3   response says you called IAWC.

4                    I assume that to mean  
5   Illinois-American's 800 phone number?

6           A.    Yes.

7           Q.    You called that number.  Somebody answered  
8   the phone, correct?

9           A.    Uh-huh.

10          Q.    What did you tell the person who answered  
11   the phone or what did you ask them?

12          A.    I don't know the exact thing that I said,  
13   but I did ask the person, told the person I was  
14   interested in finding out information about service  
15   line protection programs, water line protection  
16   programs.  I did not try to indicate that I was a  
17   customer of Illinois-American Water Company but I  
18   simply asked for details, like I said, trying to  
19   learn what their process was in handling calls and  
20   what type of information they would...again, try to  
21   clarify, because I was concerned the customers would  
22   be mislead into thinking that the product was offered



1 by the utility as is often the case with these types  
2 of programs, and I wanted to clarify whether or not  
3 that would be getting corrected by the customer  
4 service representative.

5 As I found in each time that I called  
6 and asked for clarification or details, the customer  
7 service representative never made an attempt to clarify  
8 that the product was offered by an affiliate. They  
9 called in another representative, another department,  
10 and several times they said, yes, we have such a  
11 product. Let me transfer you.

12 Q. Okay. Let's break this down. You  
13 called -- where did you get the American Illinois 800  
14 number?

15 A. From their website.

16 Q. And the website gave a number for the  
17 utility, correct?

18 A. Uh-huh.

19 Q. And you called the utility 800 number,  
20 correct?

21 A. That's correct.

22 Q. You asked the person who answered the phone

1     whether the utility had, whether they offered a water  
2     line protection program, correct?

3           A.    I'm not certain if I used the term do you  
4     have it or does Illinois-American.  I don't remember  
5     but --

6           Q.    But the nature of the inquiry --

7           JUDGE JONES:  Let him finish his answer.  If  
8     you think something needs to be stricken, you can  
9     make a motion.  Let's let him finish his answer.

10          A.    But basically was asking whether or not  
11     they had a product of this sort.

12          Q.    And whoever "they" was said that they could  
13     transfer you to somebody that could answer your  
14     question, correct?

15          A.    In this case for this day, it was another  
16     department.  That was the term that Carla used in  
17     that call.

18          Q.    However many calls you made, in each  
19     instance where you asked about water line protection,  
20     you were transferred to some other telephone number,  
21     correct?

22          A.    No.  There were I think one or two calls in

1     which I was provided with information about the  
2     product by the customer service representative.

3           Q.    Okay.  We sent a data request asking you  
4     about any notes that you have with conversations, and  
5     we got one page as an attachment.

6           A.    I have --

7           JUDGE JONES:  Let him finish the question.

8           Q.    It looks like this.

9           A.    I'm just going back to 4.04.

10                    Okay.  Right.

11           Q.    This is a note of your February 7th call?

12           A.    Yes, it is.

13           Q.    I'm not sure if it shows up on your copy,  
14     but it appears to me that there is a photocopy of  
15     notes that were taken on a notepad that look similar  
16     to mine, is that right?

17           A.    Except it was white.

18           Q.    Okay.  Were there additional notes on this  
19     page?

20           A.    Absolutely.

21           Q.    Relative to your phone conversation?

22           A.    Not to this one, no.

1           Q.    To any phone conversation involving  
2   Illinois-American?

3           A.    Yes.

4           Q.    And those were redacted?  It doesn't show  
5   up on what was given to us, is that right?

6           A.    That's correct.

7           Q.    And whose decision was that?

8           A.    Mine.

9           Q.    That was yours?

10          A.    Yes.

11          Q.    Okay.  You decided you would be selective  
12   in what you decided to turn over?

13          A.    You asked a question about a particular  
14   phone call that I referenced as the basis of my  
15   statement in testimony in 119.

16                    Then in 4.04, you asked for me to  
17   provide information about that call, provide the date  
18   and time of his call, the name of the CSR if known,  
19   how he identified himself and other notes or  
20   documents related to that conversation, and that is  
21   exactly what I provided.

22          Q.    Okay.  Sir, I want to make sure I'm

1     understanding this. I hope we can agree that to the  
2     extent you're asking the Commission to find that  
3     violations have occurred that notes of the  
4     conversations that you had and upon which you base  
5     your testimony would be useful information to the  
6     Commission and other parties to understand what's  
7     going on. Would you agree with me?

8             MR. LANNON: I'm going to object, Your Honor.  
9     That's argumentative.

10            JUDGE JONES: Did you finish your question?

11            MR. WHITT: I did finish.

12            JUDGE JONES: Response? Response to the  
13     objection?

14            MR. WHITT: What was the objection? What's the  
15     basis?

16            MR. LANNON: Argumentative.

17            MR. WHITT: It's not argumentative. I asked  
18     him as an expert whether he thinks it's important to  
19     the Commission to have information in front of it of  
20     notes reflecting conversations which he claims  
21     constitute violations of the Public Utilities Act.

22            JUDGE JONES: Ms. Reporter, can you read the

1 question back, please?

2 (The reporter read back the last  
3 question.)

4 JUDGE JONES: The way that question is worded,  
5 given the fact there's an objection to it, the form  
6 of the question pretty much makes it almost  
7 impossible to rule on the objection.

8 So given that, the witness will not be  
9 required to answer that question, but you're free to  
10 form a different one, and we'll see where it goes.

11 Q. BY MR. WHITT: How many pages of notes do  
12 you have, sir, relative to your interactions with  
13 Illinois-American or any affiliate?

14 A. Probably three.

15 Q. Do you still have possession of those?

16 A. I believe so.

17 Q. Where are they located?

18 A. In my office.

19 Q. Which is in this building?

20 A. Yes.

21 Q. Did you keep track of how much time you  
22 spent on the phone when you made your calls?

1           A.   Not generally.   Sometimes I would write  
2   down the time I called, and if it took awhile or if I  
3   was transferred, you know, I might have jotted a note  
4   about that specific duration of time, but I didn't  
5   keep a running total of how much time I invested in  
6   my investigation in my calling the utility.

7           Q.   When you were transferred, on those  
8   occasions where you were transferred, how much time  
9   did that take?

10          A.   It depends on whether or not you mean from  
11   the beginning of the call or the time I asked for  
12   information till the time I was actually transferred.  
13   There's a variety of --

14          Q.   No.

15          JUDGE JONES:   Let him finish his answer.   If  
16   you feel like he's answered a question other than the  
17   one you asked, then you can object and move to  
18   strike, but we need to allow a little bit of  
19   separation here between questions and answers so  
20   people can finish their answers and others can finish  
21   their questions.

22                       Thank you.

1           THE WITNESS:  Sir, if you could be more precise  
2   on the amount of time.  It was an instant from the  
3   time that CSR transferred me until the time I was  
4   back to that portion of AWR's IBR I believe it was  
5   referred to yesterday by Ms. Cooper, but, I mean,  
6   it's a split second thing, but the point where I was  
7   asking for information and trying to determine what  
8   kind of information was provided was a variety of  
9   time between maybe 10 seconds to 45 seconds if the  
10  CFR was willing to provide more details about WLPP.

11           Q.  Let me ask my question again.  It's very  
12  simple.

13                   At any point in time when the CSR said  
14  now I'm going to transfer you to somebody, if I  
15  understand you correctly, that took, in your words,  
16  an instant; am I right?

17           A.  Basically, yes.

18           Q.  And you were given at one point AWR's  
19  direct telephone number, correct?

20           A.  By the CSR, yes.

21           Q.  And you continued then to place calls to  
22  the utility phone number asking about AWR?



1           A.    Certainly.

2           Q.    And you're not an Illinois-American Water  
3 customer, are you?

4           A.    No, no, I'm not.

5           Q.    And did the CSR that you talked to ever ask  
6 you whether you were a utility customer before they  
7 transferred your call?

8           A.    Yes.

9           Q.    Would you agree the call center incurred a  
10 cost to handle your call?

11          A.    The call center incurs costs for calls  
12 based on the number of calls made to the toll-free  
13 number. That's what I've been lead to believe by the  
14 witnesses of Illinois-American or American Water  
15 Works Service Company.

16                   Given that they are the source of that  
17 information, I would say yes, for each call that I  
18 made to that number, the cost to Illinois-American  
19 was increased by whatever the average cost per call  
20 for that time period was.

21          Q.    So the answer to my question is yes?

22          A.    Costs, yes, to Illinois-American, yes.

1           Q.    Okay.  Now, line 534 of your rebuttal  
2   testimony...

3           MR. LANNON:  Is that line 534?

4           MR. WHITT:  Yes.

5           Q.    And it goes over onto the next page, but  
6   you say CSRs are, in fact, referring inquiring  
7   ratepayers to their nonregulated affiliates for  
8   informational/marketing purposes?

9           A.    That's correct.

10          Q.    And in the call that we talked about, you  
11   are the person who asked about AWR, correct?

12          A.    No.

13          Q.    I thought we had established that when you  
14   called the call center, the purpose of those calls  
15   was to ask about water line protection or AWR?

16          A.    I said that the purpose of the call was to  
17   ask the CSR about water line protection plan.  I did  
18   not mention AWR or any affiliate in my question to  
19   the CSR, and the CSR did not indicate that I was  
20   being transferred to AWR or an affiliate at all.

21          Q.    Okay.  By refer though, all you mean is  
22   transfer, correct?

1           A.    You mean this particular quote from my  
2   testimony?

3           Q.    Well, when you say that CSRs are referring  
4   inquiring ratepayers to nonregulated affiliates, what  
5   you mean by that is that they are simple transferring  
6   the call?

7           A.    No.

8           Q.    Can you go to line 482 of your rebuttal?  
9   Are you with me?

10          A.    Give me one second.   Yes.

11          Q.    In response to Ms. Cooper, beginning at  
12   line 482 you say, "I use the term transfer to mean a  
13   physical action conducted within a phone system.  I  
14   use the terms refer and referral more broadly to mean  
15   any method of getting ratepayers connected with AWR."

16                   Did I read that correctly?

17          A.    Yes, you did.

18          Q.    At line 295 of your rebuttal, you say that  
19   after completing utility business, the customer is  
20   then solicited and transferred to AWR.  The customer  
21   is never told that AWR is an affiliate or that the  
22   call is no longer pursuant to regulated business.

1                   In your opinion, is it important for  
2 callers to the Illinois-American 800 number to know  
3 that AWR is an affiliate?

4           A.    I think it's important for callers who are  
5 calling a toll-free number of the utility, if they're  
6 going to be provided with information or a transfer  
7 or a referral to AWR, at a minimum, they need to  
8 understand that AWR is not a regulated affiliate.

9           Q.    And would it be your opinion that it's also  
10 important for the caller to know that whatever  
11 happens after the utility business is concluded is no  
12 longer pursuant to regulated business?

13          A.    Absolutely.

14          Q.    Is it reasonable to assume that a great  
15 many customers don't understand what an affiliate is  
16 or what regulated business means apart from those of  
17 us in the room?

18          A.    I think that's a pretty reasonable  
19 assumption.

20          Q.    And would it also be a reasonable  
21 assumption that trying to explain these concepts to a  
22 customer might actually cause confusion to them?

1           A.    That's possible.

2           Q.    Would it also be possible that it would  
3   take time to explain these concepts to a caller?

4           A.    It certainly would.

5           Q.    And that explanation and dialogue with the  
6   customer would increase the length of calls, wouldn't  
7   it?

8           A.    Certainly.

9           Q.    Would you agree that simply transferring  
10   the call or providing AWR's contact information could  
11   be accomplished much more quickly than engaging in  
12   this dialogue?

13          A.    Yes.

14          Q.    What should the CSR have done differently  
15   in the conversations you had with them?

16          A.    I think the CSRs, if they've been trained  
17   appropriately, would have noted that the likely  
18   reason for my calling the utility, Illinois-American,  
19   and asking about an affiliate's water line protection  
20   program, which just asking about the water line  
21   protection program, they would have known and of  
22   course knew that I was referring to AWR's product

1     because that's who they transferred me to, so they  
2     should have explained that Illinois-American does not  
3     offer any service line protection plans, and in my  
4     opinion, they should say that they are not allowed to  
5     provide that information.

6           Q.    Or they could transfer you to somebody who  
7     can, which is what they did, right?

8           A.    Certainly.

9           Q.    And once you were talking to somebody at  
10    AWR, did they explain to you what the situation was?

11          A.    Not at all.  I was never once by an AWR  
12    employee ever informed that they were an affiliate,  
13    an unregulated affiliate, and that the products and  
14    services that they were offering were not offered by  
15    Illinois-American and they weren't regulated.

16          Q.    So it's your position that when an  
17    Illinois-American customer calls the utility and asks  
18    about line protection, that the CSR should -- what  
19    should the CSR do?

20                   I think what I'm hearing you say is  
21    that they shouldn't give them any information about  
22    AWR.

1           MR. LANNON:  Objection.  I think that  
2   mischaracterizes the witness's testimony.

3           MR. WHITT:  Well, please correct me if I'm  
4   wrong.

5           JUDGE JONES:  Ms. Reporter, could you read the  
6   question back, please?

7                               (The reporter read back the last  
8                               question.)

9           JUDGE JONES:  This is cross.  I think that's a  
10   reasonable question.

11                            Do you understand the question,  
12   Mr. Sackett?

13           THE WITNESS:  I believe I do.

14           JUDGE JONES:  Go ahead and answer it if you  
15   can.

16                            Do you need it read back?

17           THE WITNESS:  Yes, please, if you would.

18           JUDGE JONES:  Ms. Reporter?

19                            (The reporter read back the last  
20                            question.)

21           THE WITNESS:  That would be my preference.  I  
22   think that's the most, I hesitate to use the term

1     honest but the most forthcoming issue.  If the  
2     customer is calling and they're confused about  
3     affiliate relationships, I don't think that it's in  
4     the customer's interest, even if it's more  
5     convenient, to exacerbate a misperception that the  
6     customer has regarding who is offering this product,  
7     and while that may be convenient for American Water  
8     Resources to receive a call from somebody interested  
9     in their product, I don't think that the utility has  
10    any business offering customers to an unregulated  
11    affiliate without the Commission's approval.

12                   They sought Commission approval to  
13    provide information to their customers on a water  
14    line protection plan, and the Commission clearly said  
15    no, you may not do that.

16                   To me, the CSRs operating out of the  
17    service center that do provide information to  
18    ratepayers of Illinois-American, in my opinion, they  
19    are operating as agents.  It's a nonlegal term for me  
20    and it just helps me to understand that the  
21    association that they're there representing when they  
22    answer that phone, even though they answer the phone



1 "American Water," they're answering on behalf of  
2 Illinois-American Water Company.

3 I think when that happens, I think  
4 that there is a responsibility on the part of the  
5 water company to not pass those customers along to  
6 their affiliate, and they need to correct the  
7 misperception that may have occurred that lead the  
8 customer to call the water utility about an  
9 affiliated company's product.

10 Q. Let's go through the hypothetical.

11 Assume I'm a customer of  
12 Illinois-American, okay? I call the  
13 Illinois-American 800 number about a billing  
14 question.

15 Are you following me so far?

16 A. Uh-huh.

17 Q. Is that yes?

18 A. Yes.

19 Q. And the CSR helps me out, and then I say,  
20 "By the way, I'm interested in line protection. Can  
21 you help me out with that?"

22 Still following?

1           A.    Yes.

2           Q.    In your opinion, it is a violation of  
3    Section 7-101 of the Public Utilities Act for the  
4    service company call center representative to  
5    transfer me to AWR or give me AWR's phone number or  
6    give me AWR's website?

7           A.    Yes.

8           MR. LANNON:  Objection, Your Honor.  First of  
9    all...

10          MR. WHITT:  Well, he answered it.

11          MR. LANNON:  Did he answer all, what was it,  
12    five parts?

13          MR. WHITT:  He answered my question, and I will  
14    move to my next question.

15          JUDGE JONES:  Did you finish your answer?

16          THE WITNESS:  Yes.

17          JUDGE JONES:  Thank you.

18          Q.    BY MR. WHITT:  Line 266 of your rebuttal...

19          A.    You said 266?

20          Q.    266, and actually, I may have meant your  
21    direct.  Well, I can give you a specific page  
22    reference if you need it, but is it your testimony

1     generally that when the service company CSRs interact  
2     with Illinois-American ratepayers on behalf of the  
3     utility, then the CSR is functioning as an agent of  
4     the utility, correct?

5           A.    As I clarified, it is my nonlegal opinion  
6     that such an agency does exist, yes.

7           Q.    And that exists when the service company  
8     interacts with the utility ratepayer, correct?

9           A.    Yes.

10          Q.    And once a caller is transferred to AWR,  
11     there is no longer any interaction between the CSR  
12     and the ratepayer, correct?

13          A.    Not to my knowledge.

14          Q.    On whose behalf was the service company CSR  
15     acting when you called since you're not a ratepayer?

16          A.    Illinois-American's.

17          Q.    So is it your position that the service  
18     company acts on Illinois-American's behalf regardless  
19     of who's calling?

20          A.    Yes.

21          Q.    Okay.  Let's talk about your visit to the  
22     call center on February 16th.

1                   Whose idea was it to go visit the call  
2   center?

3           A.    It was my idea.

4           Q.    Okay.  Can you go to the response to 1.23,  
5   IAWC-ICC 1.23?

6                   May I approach, Your Honor?

7           JUDGE JONES:  Yes.

8           MR. WHITT:  And we will mark this entire  
9   collection of DRs for the time being as IAWC Cross  
10   Exhibit 1.

11          JUDGE JONES:  Are you talking about both  
12   batches?

13          MR. WHITT:  The one I gave you, Your Honor.  
14   I'll call it the corrected batch.  We have not  
15   identified anything previously.  Now that we have the  
16   right collection, I'm going to mark it as Cross  
17   Exhibit 1.

18          MR. LANNON:  Mark, just for clarification, is  
19   this comprehensive?  Is this all?

20          MR. WHITT:  I believe this is all.

21          MR. LANNON:  Including attachments?

22          MR. WHITT:  Yes.

1           Q.    Mr. Sackett, do you have your response to  
2   IAWC-ICC 1.23 that was served on March 14, 2012?

3           JUDGE JONES:   What was that reference again,  
4   Mr. Whitt?

5           MR. WHITT:    1.23.

6           JUDGE JONES:   Thank you.

7           MR. WHITT:    There are a couple different  
8   responses.   I'm focusing right now on the one dated  
9   March 14.

10          THE WITNESS:   Okay.   So the one dated March 14  
11   you're saying.   Okay.

12          Q.    Do you have that one?

13          A.    I do.

14          Q.    And this requested you to produce notes,  
15   memoranda, e-mails or other documents referring,  
16   reflecting or relating to your February 16th visit,  
17   correct?

18          A.    That's correct.

19          Q.    And if you will turn the page, there is  
20   another response dated March 20, 2012.   This one has  
21   some attachments.

22          A.    Yes.   I see that response.

1           Q.    Okay.  And if we go to the first  
2   attachment, there's an e-mail from Dan Kahle to you  
3   dated February 9th.

4                   Do you see that?

5           A.    Yes, I do see that.

6           Q.    If you will go, Mr. Sackett, continuing a  
7   few more pages until you get to a document entitled  
8   "Request for PUB Travel Approval," which I assumes  
9   means public?

10          A.    Public Utilities Bureau.

11          Q.    Okay.  This is a travel request form,  
12   correct?

13          A.    Yes.

14          Q.    And did you fill out this document?

15          A.    I did.

16          Q.    And when you filled out the February 9th  
17   request for travel approval, you intended at the time  
18   to bring Mr. Kahle with you?

19          A.    I did.

20          Q.    And if you will look at the line where it  
21   says, "If applicable, please explain why travel is  
22   necessary for more than one person."

1           A.    Yes, I see that line.

2           Q.    And you wrote, "Mr. Sackett is a policy  
3   witness who is investigating the unauthorized  
4   provision of services."

5                    Had you made a determination as of  
6   February 9, 2012 that there was an unauthorized  
7   provision of services occurring?

8           MR. LANNON:  Objection, Your Honor.  That calls  
9   for a legal conclusion.  If Mr. Whitt wants to ask  
10   him for a layman's characterization, that's fine.

11           JUDGE JONES:  Response?

12           MR. WHITT:  Your Honor, I'm asking him a  
13   question about what he wrote.  He said he's a policy  
14   witness who's investigating the unauthorized  
15   provision of services, and the question is, had he  
16   determined at that time as of February 9th someone  
17   was providing unauthorized services.

18           MR. LANNON:  It's the conclusion part of the  
19   question that I'm referring to, Your Honor.

20           JUDGE JONES:  I think counsel is just asking  
21   about the words that appear in the DR response, so  
22   whatever context the word was used in the DR response

1 we'll say can be the same context as used by  
2 Mr. Sackett when he answers the question.

3 THE WITNESS: I'm a little fuzzy on exactly  
4 when this happened in the whole course of my  
5 investigation, but I'm reasonably certain that by  
6 that time, I had already determined, based on the  
7 calls and the information that I had there, that  
8 there already was an unauthorized provision of  
9 services.

10 Q. BY MR. WHITT: And this was prior to your  
11 visit to the call center?

12 A. Yes.

13 Q. And two days after your February 7th phone  
14 conversation that we had talked about, correct?

15 A. Yes.

16 Q. You had not served discovery on the company  
17 as of February 9th, had you, relative to the call  
18 center or any affiliate issues?

19 A. If you would please give me one second.

20 (Pause)

21 A. I believe that my initial set of discovery  
22 that went out went out sometime in November. I don't



1 actually, I apologize, I don't have that first set of  
2 DR requests, but there were questions about affiliate  
3 transactions, and there were questions I believe in  
4 that set about interactions between service company  
5 employees and, well, between the company and its  
6 ratepayers regarding AWR.

7                   There were also questions that were  
8 asked by other staff witnesses which I did review,  
9 Bill Atwood being one and Dan Kahle being another,  
10 and so they asked some questions which I reviewed,  
11 and those answers were also I guess a portion of the  
12 basis of that conclusion at that time.

13           Q. And, sir, you have attached various data  
14 request responses to your direct and rebuttal  
15 testimony in this case, is that correct?

16           A. That's correct.

17           Q. And would you agree subject to check that  
18 none of those, none of the responses that you attach  
19 to your testimony were even served prior to  
20 February 9th?

21                   You don't have to look it up. We'll  
22 let the testimony speak for itself.



1           A.    Yes.

2           Q.    And Mr. Smith is indicating to you, is he  
3   not, that he had some basic questions about whether  
4   it would be logistically feasible to arrange a visit  
5   that soon?

6           A.    Yes, he did.

7           Q.    And you also sent an e-mail to Mr. Lannon  
8   and others with a list of items that you wanted to  
9   have for your visit, correct?

10          A.    That's correct.

11          Q.    Was it your expectation that staff would  
12   send DRs for the items that you've listed in the  
13   e-mail?

14          A.    Yes.

15          Q.    And you did not have any of the items  
16   listed in your e-mail prior to your visit, correct?

17          A.    Some of the information that I asked for of  
18   the company was provided during my visit to the  
19   facility before I actually went through the call  
20   center, so I did not have it prior to traveling to  
21   Alton.

22          Q.    Well, let's try this again.

1                   You requested a list of items on  
2   February 14th because you didn't have what you were  
3   asking for and you felt you needed it and you would  
4   like to have had it before the visit, correct?

5           A.    Yes.

6           Q.    Could you go several pages I guess until  
7   you come to a response to IAWC-ICC 1.23, and this is  
8   a response date of March 28, 2012.

9           A.    Okay.  There are apparently several pages.

10          Q.    It's probably a dozen pages.

11          A.    Okay.  All right.  Yes, I'm looking at that  
12   document.

13          Q.    Okay.  The second page of the attachment to  
14   the March 28th version of ICC 1.23 has another travel  
15   request approval form, correct?

16          A.    The second page of the attachment?

17          Q.    Yes.

18          A.    Yes.

19          Q.    And this one is dated February 10th, the  
20   day after the one you talked about previously,  
21   correct?

22          A.    I believe so.

1           Q.    Can you tell me why there is information on  
2   this travel request form that is redacted and there  
3   was not any information redacted on the February 9th  
4   request?

5           MR. LANNON:  Objection, Your Honor.  Calls for  
6   a legal conclusion.

7           MR. WHITT:  There was nothing legal about that  
8   question.

9           MR. LANNON:  Mr. Sackett consulted with staff  
10   attorneys regarding this, and we --

11          MR. WHITT:  Well, Mr. Lannon --

12          MR. LANNON:  We feel it's confidential, and we  
13   redacted it just like the company does when they  
14   respond to our DR.

15          MR. WHITT:  First, it's not privileged because  
16   he's an expert.

17                       Second, if it was privileged, the  
18   privilege is waived by virtue of an unredacted report  
19   on the same subject matter that was produced in the  
20   prior response.

21          MR. LANNON:  And you're a hundred percent  
22   certain the redacted part is exactly the same?

1                   And why would the privilege -- why  
2   would there be no privilege if I'm giving my client  
3   legal advice? I don't understand.

4           MR. WHITT: Because he's a testifying expert,  
5   and attorney-client privilege does not apply to  
6   testifying experts.

7           MR. LANNON: You mean you waive, for all your  
8   expert witnesses, you waive all attorney-client  
9   privilege?

10                   I think counsel is exaggerating that  
11   point quite a bit.

12           JUDGE JONES: Ms. Reporter, could you read the  
13   question back, please?

14                               (The reporter read back the last  
15                               question.)

16           JUDGE JONES: While there may or may not be a  
17   simple answer to that question, given the dialogue  
18   between counsel over the objection to it has sort of  
19   taken it to another level to raise questions about  
20   attorney-client privilege and waivers and so on.

21                   There's no simple way to really rule  
22   on that based on the argument that's in front of me

1     at this time if that's what that objection is about,  
2     so work your way through your questions as best you  
3     can. If there is still a debate over that, we will  
4     figure out some way to get that fully addressed, but  
5     we're not going to take up any more time this  
6     afternoon trying to work through all the legal  
7     implications and issues that come up under that  
8     privilege or related privileges.

9             MR. WHITT: I'm not sure, Your Honor. Is he  
10    allowed to answer the question of why it was redacted  
11    or --

12            JUDGE JONES: Well, that's the first thing I  
13    brought up. If it were that simple, then perhaps  
14    there could be some argument specific to that and a  
15    ruling, but the arguments went way beyond that, and  
16    so there is no simple way to issue that ruling given  
17    the arguments that followed that pulled that question  
18    into a broad area of attorney-client privilege.

19                    So that question and answer and  
20    objection are basically put on hold, and if there is  
21    still a debate over that, we'll figure out some way  
22    to get that properly addressed at some point in time,

1 but I'm not going to take the time to do it now, and  
2 I'm not going to take the time to repeat my statement  
3 again either.

4 Q. BY MR. WHITT: Mr. Sackett, looking at the  
5 same document we've been discussing...

6 A. The February 10th?

7 Q. Yes.

8 A. Okay.

9 Q. The purpose of filling out this document  
10 was to obtain approval to travel to the call center,  
11 correct?

12 A. To incur expenses associated with that,  
13 yes.

14 Q. Okay. And you were not -- you didn't fill  
15 out this form for purposes of soliciting legal  
16 advice, did you?

17 A. No.

18 Q. You didn't have to provide a completed form  
19 to your lawyer, did you?

20 A. Yes.

21 Q. For approval?

22 A. No, for reference and whether or not it was



1 appropriate.

2 Q. So counsel wasn't one to make a  
3 determination of whether the travel expense --

4 MR. LANNON: I object, Your Honor. He's  
5 assuming facts that are nowhere in the record. I  
6 have already said I made this determination, and I  
7 object to any questions that try to go to information  
8 that lie behind the redaction.

9 JUDGE JONES: Are these questions again  
10 addressing the redaction?

11 MR. WHITT: It's addressing whether there's any  
12 basis at all to assert attorney-client privilege.

13 JUDGE JONES: Well, we're not going to debate  
14 that now. We're not going to listen to lines of  
15 questioning about it either. If that's an issue,  
16 we'll deal with it, and if it remains an issue, we'll  
17 deal with that later.

18 Q. BY MR. WHITT: Can you go two more pages,  
19 Mr. Sackett, until you get to an e-mail dated  
20 February 10th?

21 A. Okay.

22 Q. It's an e-mail from you to Mr. Stoller.

1           A.    Maybe I'm on the wrong page.  Oh, okay.

2           Q.    Are you with me?

3           A.    Yes.  It was the next page.

4           Q.    And it appears that there was information

5 redacted out of this information as well, is that

6 correct?

7           MR. LANNON:  Your Honor, I'm not sure what page

8 we're on.  Is it the February 10th, 1:53 p.m. e-mail

9 from Michelle Nelson.

10          MR. WHITT:  10:15 a.m., David Sackett to Harry

11 Stoller.

12          THE WITNESS:  Oh, I'm not looking at the same

13 page you are.

14          MR. LANNON:  I found it.

15          THE WITNESS:  Okay.  Now I found which one.  It

16 was three pages later.  Okay.  I found the page I

17 think you're at.  If not, I'm sure you'll correct me.

18          Q.    BY MR. WHITT:  And there's information

19 redacted out of this information as well, correct?

20          A.    Yes, it appears so.

21          Q.    If you'd go two more pages, there is an

22 e-mail from you to Mr. Stoller and others dated

1 February 17th. Do you see that?

2 A. Yes.

3 Q. And is this a summary of your visit to the  
4 Alton call center?

5 A. I actually don't know what this e-mail  
6 contained.

7 Q. You wrote it, didn't you?

8 A. At the time, yes.

9 Q. And you --

10 A. I don't have a copy of it that's not  
11 redacted, and I did not participate in the choice or  
12 the process of redacting that information, so I do  
13 not know what is under those black lines.

14 Q. And about half of the message here is  
15 redacted as well, isn't it?

16 A. It looks like slightly more than half, yes.

17 Q. Okay. And so the summary that you did a  
18 few days after visiting the call center...

19 MR. LANNON: Objection. Mischaracterizes his  
20 testimony.

21 MR. WHITT: Can I finish my question, please?

22 MR. LANNON: No. I'm making an objection. He

1       didn't say it was a summary.

2               JUDGE JONES: Counsel is entitled to complete  
3       his question unless it discloses confidential  
4       information or something or is on the brink of that,  
5       but otherwise...

6                       Go ahead.

7               MR. WHITT: Thank you, Your Honor.

8               Q. Did your e-mail message on February 17th,  
9       and you don't have to tell me the details of it, I  
10       just want to know did it describe your visit to the  
11       call center?

12              A. Yes.

13              Q. And you don't have an unredacted version of  
14       this document, correct?

15              A. Not on me, no.

16              Q. Do you have access to it?

17              A. Certainly.

18              Q. Where is that document?

19              A. In my e-mail records.

20              MR. LANNON: Your Honor, I just want to point  
21       out if the company had problems with this, they've  
22       had this in their possession for a long time, they

1     could have spoken to us. We've resolved a lot of  
2     redaction type of issues between us, between the  
3     company and staff. If it could have been resolved,  
4     they could have brought a motion to your attention  
5     months ago.

6             JUDGE JONES: Is that an objection or comment  
7     or what is that, Mr. Lannon?

8             MR. LANNON: I guess it's both, Your Honor.  
9     I'll leave it as a comment for now.

10            MR. WHITT: I'll move to have it stricken.

11            JUDGE JONES: All right. Here's the deal.  
12     We're not going to spend hours this afternoon  
13     debating over whether this was properly redacted,  
14     whether this was properly treated as proprietary,  
15     confidential, etc.

16                    If there's a dispute over that, a  
17     procedure will be put in place to get that addressed,  
18     but we're not going to spend the rest of the  
19     afternoon battling over whether something was  
20     properly redacted some time back. It's not efficient  
21     or in the best interest of this proceeding or this  
22     process to do that.



1           A.    That's one possible conclusion, yes.

2           Q.    Okay.  Which do you think is more likely,  
3   that you may be mistaken or that the company has  
4   doctored its records as you suggest at footnote 6,  
5   page 23 of your testimony?

6           A.    I can't place a likelihood on the relative  
7   likelihood of either of those two things.

8           Q.    Okay.

9                       Now, you also take issue with how  
10   Illinois-American investigates leaks for customers  
11   that happen to have a water line protection program,  
12   correct?

13          A.    That's correct.

14          Q.    And your rebuttal, line 611...

15          A.    Are we going to be coming back to this set  
16   of discovery?

17          Q.    Not the particular ones we've looked at but  
18   keep your stack handy if you would.

19          A.    Okay.  So 611?

20          Q.    Yeah.  Actually, there's a question and  
21   answer from 609 to 618 where you address Mr. Suits'  
22   testimony about what happens when leaks are

1       investigated.

2           A.    Uh-huh.

3           Q.    You would agree with me, wouldn't you that

4       prudent utility operation requires Illinois-American

5       to respond to emergency service orders?

6           A.    Yes.

7           Q.    And that it has a duty to investigate

8       emergency service orders to all of its customers,

9       correct?

10          A.    Yes.

11          Q.    And that's regardless of whether the

12       customer has a line protection program or not,

13       correct?

14          A.    Certainly.

15          Q.    And regardless of whether such a program is

16       from AWR or any other entity, correct?

17          A.    That's correct.

18          Q.    And it wouldn't be appropriate to refuse to

19       investigate leaks for customers who have informed the

20       company that they happen to have an AWR product,

21       correct?

22          A.    Certainly not.



1           Q.    And the costs associated with leak  
2    investigations exist regardless of whether a customer  
3    has a line protection program, correct?

4           A.    Yes.

5           Q.    As a matter of good customer service, do  
6    you think Illinois-American should let customers know  
7    whether it's the customer's responsibility or the  
8    utility's responsibility to have a leak fixed?

9           A.    Yes.

10          Q.    Line 616 of your rebuttal...

11          A.    Yes.

12          Q.    ...you say the service line protection  
13    provider is AWR of course because AWR is the only  
14    company whose customers receive this courtesy, and  
15    again you're referring to Mr. Suits?

16          A.    Yes.

17          Q.    You're not suggesting, are you, that  
18    Illinois-American does not tell customers who have a  
19    line protection program through someone else that  
20    they should contact their line protection service  
21    provider?

22          A.    Can you rephrase the question?

1           MR. WHITT: Could you read it back?

2                               (The reporter read back the last

3                               question.)

4           MR. WHITT: That was awful. I'll rephrase.

5           THE WITNESS: I'm confused by the should and

6   the does.

7           MR. WHITT: It confused me too, so I'm going to

8   try again. Actually, I'm going to move on.

9           Q. Mr. Sackett, would you agree with me, all

10 other things being equal, that the fewer claims that

11 AWR has to cover, the more profitable they will be?

12          A. Did you say AWR?

13          Q. Yes.

14          A. The fewer claims, yes.

15          Q. Because of how the business works, correct?

16          A. Yeah.

17          Q. And so it's your position that

18 Illinois-American is somehow doing AWR a favor by

19 telling customers to contact AWR when it's a customer

20 issue?

21          A. Absolutely.

22          Q. Well, if Illinois-American wanted to

1     benefit AWR, wouldn't it have an incentive not to  
2     mention anything about AWR so that the repair  
3     wouldn't get fixed?

4             A.    Not at all.  The affiliate AWR in the  
5     provision of this program has legal responsibilities  
6     pursuant to its terms and conditions in the contract  
7     that it has with each of its customers.  It has to  
8     investigate and fix those leaks or determine if it's  
9     their responsibility under that, and in water line  
10    protection plan, there's no charge for a service call  
11    to come out for that.

12                   For the other two programs that AWR  
13    has, they do charge \$50 for an inspection to  
14    determine whether or not it's covered by the actual  
15    product that the customer has.

16                   But if AWR has a legal obligation to  
17    honor its contract with its customers, then to the  
18    extent that it can do it cheaply by having an  
19    affiliate go and make that determination, then that  
20    certainly is in AWR's best interest because it  
21    reduces their cost.  They don't have to pay for those  
22    determinations where it comes out that it's their

1 responsibility or they don't have to go investigate  
2 the ones that aren't their responsibility which they  
3 would have to do if the utility wasn't out there  
4 providing them that information or providing the  
5 customer with that information for that matter.

6 Q. All of that assumes that a claim is made to  
7 AWR.

8 If a claim is not made to AWR, it has  
9 no obligation. Would you agree with that?

10 A. I would agree with that.

11 Q. Your testimony at line 301...are you there?

12 A. Yes, I am.

13 Q. You say it is clear that IAWC agents now  
14 perform many, if not all, of the same actions that  
15 the Commission rejected when it declined to approve  
16 the service.

17 Did I read that correctly?

18 A. Yes.

19 MR. WHITT: May I approach, Your Honor?

20 JUDGE JONES: Yes.

21 Q. BY MR. WHITT: Mr. Sackett, I'm going to  
22 hand you what we'll mark for identification as IAWC

1 Cross Exhibit 2, and I'll direct your attention to  
2 page 12.

3 JUDGE JONES: Quick question here. Is it the  
4 intent of IAWC to file any cross exhibits that are  
5 admitted on the e-Docket filing system?

6 MR. WHITT: Yes, Your Honor. Some of these --  
7 I probably will not seek admission of any Commission  
8 orders. I'll just mark them for identification for  
9 the time being.

10 Q. Mr. Sackett, I want to talk to you about  
11 what Illinois-American asked to do in a 2002  
12 proceeding and what you allege they're doing now.

13 A. Okay.

14 Q. And again, if you'd go to page 12 with me.

15 A. Uh-huh.

16 Q. There's a Section 5. The heading is the  
17 WLPP. Do you see that?

18 A. Yes.

19 Q. And if you go about six lines down, the  
20 sentence that begins "Customers electing..."

21 A. Yes.

22 Q. It says customers electing to institute the

1 service with AWR will be given the option to either  
2 pay the service fee directly to AWR in an annual lump  
3 sum or to elect to have the annual service fee  
4 divided into installments to be paid along with the  
5 customer's water bill, correct?

6 A. That's correct.

7 Q. And you haven't seen any evidence that  
8 Illinois-American has included AWR charges on its  
9 bills, have you?

10 A. No.

11 Q. And wasn't it also the case that in  
12 Docket 02-0517 proceeding, Illinois-American asked  
13 for permission to provide its customer list to AWR?

14 MR. LANNON: Your Honor, I'm not sure if this  
15 witness is familiar with this proceeding.

16 MR. WHITT: Well, I can show you the discovery  
17 response where he said that he reviewed this order  
18 among materials he consulted for his testimony.

19 MR. LANNON: Objection withdrawn, Your Honor.

20 THE WITNESS: Okay. So please rephrase your  
21 question.

22 Q. BY MR. WHITT: In the 02-0517 proceeding,

1     this is where Illinois-American sought approval of an  
2     affiliated interest agreement with AWR. One of the  
3     things or among the things that the utility asked to  
4     do was provide its customer list to AWR, is that  
5     right?

6           A.    Do you have a citation in the order to  
7     where that comes from?

8           Q.    Go to the second paragraph, please, on page  
9     12, the second sentence. It says, "IAWC would  
10    provide its customer list to AWR as well as the  
11    signatures of IAWC's president for use on the  
12    letter."

13          A.    Yes.

14          Q.    You haven't seen any evidence that  
15    Illinois-American is -- well, let me try it a  
16    different way.

17                    You were present and you've read  
18    Ms. Teasley's testimony indicating that  
19    Illinois-American does not provide its customer list  
20    to AWR, correct?

21          A.    I have read her testimony, yes.

22          Q.    And you haven't seen any marketing letters

1 signed by Ms. Teasley on behalf of AWR, have you?

2 A. Not at all.

3 Q. Okay. In the 02-0517 proceeding, the  
4 utility indicated that a toll-free number would be  
5 provided for customers to contact AWR directly, is  
6 that right?

7 A. Can you again -- is this the same  
8 paragraph?

9 Q. Yes. It's actually the next sentence.

10 A. Okay. Yes.

11 Q. And you would agree, wouldn't you, that AWR  
12 should have a separate phone number from the utility?

13 A. Yes.

14 Q. And again, in the second paragraph, page 12  
15 of the 02-0517 order, it describes how the call  
16 handlers at the Alton call center, there would be a  
17 group dedicated to AWR, is that right?

18 A. Yes.

19 Q. And that's how the setup exists today,  
20 doesn't it?

21 Let me ask it a little differently.

22 You're not alleging there's anything



1       wrong with AWR having a separate call center that's  
2       located within the Alton facility?

3               JUDGE JONES:   Is that a question?

4               MR. WHITT:    That was a question.

5               JUDGE JONES:   Can you read it back, please?

6                               (The reporter read back the last  
7                               question.)

8               JUDGE JONES:   It sounds like a statement.   If  
9       you want to turn that into a question, feel free.

10              Q.   BY MR. WHITT:   Is it your -- well, do you  
11       have an opinion whether there's anything  
12       inappropriate about having a separate AWR call center  
13       co-located within the Alton facility?

14              A.   Yes.   I do think that there are significant  
15       issues with an unregulated entity's use, joint use of  
16       the facility where the costs of that facility are  
17       split into costs for AWR and costs for the service  
18       center which then passes those costs on to  
19       Illinois-American and other regulated utilities  
20       because it creates a conduit for costs from the  
21       unregulated side to the regulated side, and the joint  
22       use of that facility makes it necessary for staff and

1 the Commission to be able to have information  
2 regarding that affiliate and its interactions with  
3 the call center and the service company in order to  
4 verify that the charges to Illinois-American  
5 ratepayers are not, in fact, being increased due to  
6 that relationship.

7 MR. WHITT: Your Honor, I will move to have the  
8 answer stricken as nonresponsive. My question asked  
9 nothing about allocations.

10 JUDGE JONES: Response?

11 MR. LANNON: Your Honor, the witness is trying  
12 to answer counsel's questions to the best of his  
13 ability, and I don't see how it wasn't responsive.

14 JUDGE JONES: Ms. Reporter, could you read the  
15 question back, please?

16 (The reporter read back the last  
17 question.)

18 JUDGE JONES: Opinion is a pretty open-minded  
19 question.

20 MR. WHITT: Let me ask it a little narrower.

21 JUDGE JONES: You may, but as far as striking  
22 the answer, I think when the witness was asked if he

1     had an opinion, that sort of opened the door to an  
2     opinion and that's pretty much what he gave, so you  
3     can continue with the line of questioning and ask a  
4     different one if you'd like.

5           Q.    BY MR. WHITT:  There's nothing in your  
6     testimony where you state that having a separate AWR  
7     call center within the Alton facility violates  
8     Section 7-101 of the Act.  That's not what your  
9     testimony says, correct?

10          A.    If the actual physical co-location of those  
11     two entities violates the Act in and of itself?

12          Q.    Correct.  That's the question.

13          A.    I'm not an attorney but in my opinion, no,  
14     I don't think that it does.

15          Q.    Okay.  And you agree, don't you, that  
16     having American Water Resources and the utility share  
17     some of the costs of the call center actually  
18     decreases cost to the utility?

19          A.    No, I do not agree.

20          Q.    If you'll look in your stack there at your  
21     response to IAWC-ICC 1.49.

22          A.    Yes.



1           MR. LANNON: I object, Your Honor. It's a note  
2 between me and my client. He'll find out soon enough  
3 on redirect.

4           JUDGE JONES: I'll take that under --

5           MR. WHITT: I'll withdraw the request.

6           JUDGE JONES: All right.

7           Q. BY MR. WHITT: Are you with me where the  
8 sentence says "through computer processing"?

9           A. Please give me the testimony piece and the  
10 page number.

11          Q. It's the order, page 12.

12          A. Oh, the order. I'm sorry.

13          Q. Yes.

14          A. Page 12. Okay. Go ahead.

15          Q. Third paragraph, "Through computer  
16 processing, service orders for customers who are  
17 enrolled in the program would automatically note that  
18 the customer is so enrolled." Correct?

19          A. That's correct.

20          Q. And you have read and heard Ms. Cooper's  
21 testimony that that does not happen at the Alton call  
22 center or any call center, correct?

1           A.    Are you asking specifically about  
2   Illinois-American Water customers or are you asking  
3   whether or not this activity does occur within the  
4   call center?

5           Q.    I'm asking about Illinois-American.

6           A.    Her testimony is that it does not occur,  
7   yes.

8           Q.    I want to make sure I understand what  
9   you're alleging and what you're not alleging.

10                    You are not alleging that utility  
11   employees provide direct services to AWR, correct?

12           A.    Actually, I do believe that there are some  
13   direct services that are provided by  
14   Illinois-American Water Company employees that do  
15   benefit.

16           Q.    Can you please refer your response to  
17   IAWC-ICC 1.07?

18           A.    Uh-huh.

19           Q.    The question was, "Does Mr. Sackett agree  
20   that IAWC does not directly provide services to AWR?"  
21   And your answer was "No."   Correct?   Did I read that  
22   correctly?

1           A.    No.   My answer was yes according to that  
2   response.

3           Q.    The question was, "Does Mr. Sackett agree  
4   that IAWC does not directly provide services to AWR."

5           A.    Yes, and my response to that question when  
6   asked in this discovery was yes.  You've just said my  
7   response was no.

8           Q.    If you'd go to IAWC-ICC 1.10.  "Does  
9   Mr. Sackett contend that IAWC provides services to  
10  customers on behalf of AWR?"  And your answer was no,  
11  correct?

12          A.    Yes.

13          Q.    And you are not alleging that  
14  Illinois-American or the service company solicit  
15  customers for AWR products, correct?

16          A.    Give me one second.

17          Q.    Actually, I'm conducting my  
18  cross-examination, and you can do your notes after  
19  I'm finished.

20          MR. LANNON:  Your Honor, this witness has been  
21  trying to answer and provide information to both you  
22  and the Commission.  I don't see what the problem is

1 with a little note he's making to himself.

2 JUDGE JONES: Well, what's the note regarding?

3 I mean, what's the purpose of the note?

4 THE WITNESS: I'm noting these particular

5 responses so that I can come back to them and his

6 questions regarding them so that I can clarify the

7 statement that I made about direct versus indirect

8 services.

9 JUDGE JONES: You mean on redirect?

10 THE WITNESS: Yes.

11 JUDGE JONES: All right. I'm going to have to

12 ask you not to take any more notes regarding redirect

13 since there's been a specific objection to your doing

14 so, and if counsel wants to make a request to permit

15 you to, we'll take argument on it and make a ruling.

16 THE WITNESS: Very well.

17 MR. LANNON: No, let's move on, Your Honor. I

18 understand.

19 THE WITNESS: Okay. So where were you

20 directing me next?

21 MR. WHITT: Was there -- can you read the last

22 question and answer.



1 (The reporter read back the  
2 requested portion of the  
3 record.)

4 THE WITNESS: I'm going to have to clarify my  
5 answer because there are --

6 MR. WHITT: Well, let me try it another way.

7 Q. Could you, Mr. Sackett, refer to IAWC-ICC  
8 1.47, and the question here is, "With respect to  
9 Mr. Sackett's citation at the Docket 11-0046 order  
10 (line 335), does Mr. Sackett contend that IAWC is  
11 soliciting goods or services on behalf of AWR?" Your  
12 response is no, correct?

13 A. Right.

14 Q. You agree that American Water Works Service  
15 Company is not a public utility, correct?

16 A. Yes, I would agree.

17 Q. And that American Water Resources is not a  
18 public utility either, correct?

19 A. I would agree to that as well.

20 Q. And you acknowledge that the service  
21 company is authorized to provide call center services  
22 to Illinois-American, correct?

1           A.    Yes.

2           Q.    And you agree that Illinois-American is not  
3   a party to any water line protection program with any  
4   customer, correct?

5           A.    That's correct.

6           Q.    And your direct testimony beginning at line  
7   190, you identify two agreements here between the  
8   service company and AWR, is that correct?

9           A.    In attachment B and attachment C to my  
10   direct testimony, yes.

11          Q.    And it's the case, is it not, that  
12   Illinois-American Water Company is not a party to  
13   either of those agreements?

14          A.    That's correct.

15          Q.    And would you agree with me that since  
16   Illinois-American is not a party to either agreement,  
17   it does not need to seek approval of those agreements  
18   with the Commission?

19          A.    Correct.

20          Q.    In your testimony, you describe in a couple  
21   of different places what you characterize as the  
22   exclusive nature of an association between the

1 service company and utilities that AWR derives  
2 benefit from. Is that a fair characterization?

3 A. Do you have references to my testimony  
4 where you're referring to?

5 Q. Well, I have it written down in quotes, but  
6 unfortunately, I don't have the line number.

7 A. Can you rephrase the question or --

8 Q. Well, is it your opinion that American  
9 Water Resources benefits from the exclusive nature of  
10 its association with the service company and the  
11 utilities?

12 A. Yes.

13 Q. It's your contention that AWR only offers  
14 its products and services in the areas where a  
15 regulated affiliate provides services?

16 A. Is that my testimony or my understanding?

17 Q. Yeah. Is that your understanding?

18 A. No.

19 Q. Okay. And, in fact, is it your  
20 understanding that AWR markets its products and  
21 services in areas where its affiliated utility  
22 companies don't provide service?

1           A.    That's my understanding.  I asked for that  
2   information from Illinois-American and was denied  
3   that information, but that is my understanding based  
4   upon my phone calls.

5           Q.    Now, your testimony, you talk about a  
6   couple of different cases, and I want to ask you  
7   first about the North Shore/Peoples case in  
8   Docket 11-0280.

9           A.    You said in my direct testimony?

10          Q.    I don't know if it's direct or rebuttal,  
11   but you were a witness in the Docket 11-0280 case,  
12   were you not?

13          A.    Yes.

14          Q.    Okay.  And in that case, you recommended an  
15   adjustment to the expenses billed to the utility by  
16   its affiliated service company, correct?

17          A.    That's correct.

18          Q.    And there was evidence in that case of  
19   actually two different affiliated interest  
20   agreements, was there not?

21          A.    Yes, there was.

22          Q.    One agreement was between the utility and

1     its unregulated affiliate that provided gas line  
2     protection, correct?

3             A.    Can you repeat the question, please?

4             Q.    One of the agreements was between the  
5     regulated utility and the unregulated affiliate that  
6     provided gas line protection products?

7             A.    Let me think about it.  There are actually  
8     more than just two agreements.

9             Q.    Okay.

10            A.    But there definitely were two agreements,  
11    and one of them was between Peoples Gas and North  
12    Shore and Peoples Energy Home Services.  They were  
13    parties to the agreement.  They were not the only  
14    parties to that agreement.

15            Q.    Okay.  And those agreements required that  
16    the unregulated affiliate should be billed at what  
17    was called a fully distributed cost under the  
18    agreements that the Commission had approved?

19            A.    I don't think that's precisely true.  There  
20    were a couple of different...you're talking about the  
21    agreements specifically between Peoples and North  
22    Shore and that regulated entity, not the agreement

1     between Peoples and North Shore and its service  
2     company?

3             Q.    Well, I'm not really focusing on any  
4     specific agreement, but the upshot of the case was  
5     there were agreements in place that required that the  
6     unregulated affiliate be billed a certain way for  
7     services that the utility was providing or that the  
8     service company would allocate.

9             MR. LANNON:  Your Honor, I'm going to object.  
10    I've let this go on a little bit, but if he's  
11    quizzing the witness on what's contained in the  
12    order, I think the order speaks for itself.  He can  
13    certainly brief it.  I'm not sure if the witness was  
14    supposed to memorize that order or what, but the  
15    order speaks for itself.

16            JUDGE JONES:  Response?

17            MR. WHITT:  I think I'm entitled to explore his  
18    understanding of the proceeding in which he was a  
19    witness to determine if there's any similarity in the  
20    facts and circumstances in that proceeding as  
21    compared to this one.

22            JUDGE JONES:  Did the witness make reference to

1     that order in his testimony?

2             MR. WHITT:   He did.

3             JUDGE JONES:   Do you have a cite?

4             MR. WHITT:    I will.

5                             (Pause)

6             MR. WHITT:    Yes, Your Honor.   It's direct

7     testimony, page 2, line 34; direct, page 15, line

8     342, I'm sorry, 335.   It's actually, page 15 of the

9     direct.   There's actually a couple cases mentioned,

10    this being among them.

11            MR. LANNON:    Is that page 13?

12            MR. WHITT:    15.

13            JUDGE JONES:   Thank you.

14                            Is your objection still there,

15    Mr. Lannon?   Are you still objecting?

16            MR. LANNON:    Well, it's clear that Mr. Sackett

17    did reference conclusions that the Commission made in

18    that case.

19                            If he can answer, let him answer.

20            JUDGE JONES:   All right.   I think Mr. Lannon

21    said if he can answer let him answer, so I'm going to

22    treat that as a withdrawn objection subject to that

1 condition.

2 So, Mr. Sackett, please answer that  
3 question if you can.

4 THE WITNESS: Can you read it back for me,  
5 please?

6 (The reporter read back the last  
7 question.)

8 THE WITNESS: There were several agreements as  
9 we discussed, and there were several sets of  
10 circumstances associated with the provision, and the  
11 times in which those services were provided changed  
12 throughout the historical period that we were looking  
13 at.

14 At one point, the utility offered them  
15 directly. At another point they were offered by the  
16 service company, and there were a variety of  
17 different things that we looked at in that case,  
18 various sets of services, and the Commission made I  
19 believe three different decisions in that case  
20 regarding those specific services and the manner in  
21 which they were supposed to be charged and the manner  
22 in which they were actually charged.



1                   There was one agreement that allowed  
2   for a fully distributed cost. There was another  
3   agreement that allowed for the charges to be based  
4   upon a Commission-approved methodology of recovering  
5   those costs, or, if none such was provided, then  
6   fully distributed cost was available, and the  
7   Commission opted in that particular circumstance to  
8   accept my recommendation in that case that the rate  
9   that was charged to ratepayers for repairs would also  
10  be the same price that the affiliate would have to be  
11  provided, and they were charging the affiliate fully  
12  distributed cost or what they allege were fully  
13  distributed costs of that which ended up being about  
14  half of what their ratepayers were paying for the  
15  same services.

16                   So the Commission said, no, you have  
17  to use something other than fully distributed costs  
18  in that particular circumstance because the agreement  
19  that we approved in fact had that caveat in there.

20                   So there were two different pricing  
21  structures.

22           Q.   BY MR. WHITT: Okay. So I guess you've

1 established that you do, in fact, know something  
2 about that case, so I assume you would also agree  
3 that the evidence in that case showed that the  
4 unregulated affiliate wasn't being charged anything  
5 from 2008 until 2011, right?

6 A. The unregulated affiliate wasn't being  
7 charged anything... No, I don't think you're  
8 understanding my testimony in that case.

9 Q. Do you understand my question?

10 A. Would you please read it again?

11 Q. The unregulated affiliate had not been  
12 charged anything under the Commission approved  
13 agreements from the period 2008 to 2011. They  
14 weren't paying what they were supposed to pay. In  
15 fact, they weren't paying anything. That's why the  
16 Commission adopted your recommendation.

17 A. That's not true.

18 Q. Okay. We'll let the order speak to that.

19 It is true that there is no existing  
20 affiliated interest agreement between  
21 Illinois-American Water Company and AWR, correct?

22 A. That's not true either, sir.

1 Q. Other than the office lease which is not --  
2 A. There is an office lease, yes.  
3 Q. And that's not an issue in this case, is  
4 it, as far as you're concerned?  
5 A. As far as I'm concerned, no.  
6 Q. Okay. Certainly not an agreement in place  
7 analogous to the one we've just talked about in the  
8 Nicor or Peoples Gas cases, correct?  
9 A. I'm not certain what you mean by analogous  
10 to those agreements.  
11 Q. Okay. You were also a witness in the Nicor  
12 case, Docket 11-0046, correct?  
13 A. That's correct.  
14 Q. And you cite that case in your testimony,  
15 do you not?  
16 A. Yes, I do.  
17 Q. And this is a case where Nicor Gas, its  
18 affiliated service company and its unregulated  
19 affiliate sought re-approval of an affiliated  
20 interest agreement, correct, along with merger  
21 approval?  
22 A. Not precisely. There's not a service

1 company per se in Nicor's corporate arrangement if  
2 you will. The entity which was providing services to  
3 Nicor was also the entity that was providing the  
4 warranty program Gas Line Comfort Guard.

5 Q. Under the arrangement that the Commission  
6 was looking at in the Nicor case, the utility had its  
7 own call center where the utility employees would  
8 take calls, correct?

9 A. That's true.

10 Q. And the utility employee who handled the  
11 utility portion of the call would then try to sell a  
12 gas line protection program offered by the affiliate,  
13 correct?

14 A. There were two -- calls came into one  
15 number and were directed to two various call centers,  
16 one of which was a Nicor Gas call center and one of  
17 which was a Nicor service company's call center.

18 Q. Right. And my question is with respect to  
19 the Nicor Gas call center, it was staffed with Nicor  
20 Gas employees, correct?

21 A. Yes, it was.

22 Q. And those employees as a matter of company

1 policy at the conclusion of a call were directed to  
2 solicit customers to purchase their affiliate's line  
3 protection program, correct?

4 A. That's correct.

5 Q. And, in fact, if they made a sale, the  
6 agent actually got a commission from the service  
7 company, correct?

8 A. That's correct.

9 Q. Is it fair to say that that is not a  
10 situation that you allege is occurring with respect  
11 to Illinois-American?

12 A. Which facts are you wanting me to agree to?

13 Q. Well, first of all, that Illinois-American  
14 employees do not answer customer calls; correct?

15 A. At least not through the call center.

16 Those people are service company employees.

17 Q. And you've not seen any evidence and it  
18 wasn't your experience in the phone calls that you  
19 made that utility personnel were trying to sell an  
20 affiliate's unregulated product, correct?

21 A. I never came across any evidence.

22 Q. And you didn't come cross any evidence that

1     any commissions were being earned by utility  
2     employees who sold unregulated goods and services,  
3     correct?

4             A.    No.

5             Q.    Line 413 of your rebuttal...

6             MR. LANNON:  Excuse me, Mark.  Was that direct  
7     or rebuttal?

8             MR. WHITT:  Rebuttal.  Oh, that was the wrong  
9     reference I think.

10                             (Pause)

11             MR. WHITT:  I don't have a reference for this.  
12     I'll dig it out if you need it, but do you recall in  
13     your testimony indicating that if Illinois-American  
14     Water really wanted to provide a service to  
15     ratepayers, it would provide information and  
16     transfers to all warranty providers after they had  
17     established that these providers were reputable and  
18     their products were economically justified?

19             A.    I'm reasonably certain that I said  
20     something to that effect.

21             Q.    Okay.  Now, are you recommending that  
22     Illinois-American do that, that it become a

1 clearinghouse of sorts to determine which water line  
2 protection programs are good, which are bad, and be  
3 able to assist customers with that function?

4 A. No, I really don't think that's in the best  
5 interest of the public.

6 Q. Line 112 of your rebuttal, the question and  
7 answer here indicates that in your opinion, not  
8 enough information was provided to staff to make  
9 appropriate recommendations, correct?

10 A. Yes.

11 Q. Okay. Now, if you'll refer to attachment A  
12 in your rebuttal testimony.

13 A. Yes.

14 Q. And, in fact, before we do that, in the  
15 question that begins on line 12 of your testimony  
16 where you're talking about information that hadn't  
17 been provided, you reference attachments A and B as  
18 examples of information you ask for and that the  
19 company didn't provide, correct?

20 A. And that was what line?

21 Q. The Q and A begins on line 112.

22 A. 112.

1           Q.   Attachment A is referenced at line 121 and  
2   attachment B at line 130.

3           A.   Uh-huh, that's correct.

4           Q.   If you look at attachment A, this is the  
5   company's response to one of your data requests,  
6   correct?

7           A.   Yes.

8           Q.   And it indicates that the request was  
9   received on February 23rd, correct?

10          A.   That's correct.

11          Q.   There was not an expedited turnaround time  
12   on DRs when you served this request, right?

13          A.   I'm not certain what you mean by expedited  
14   turnaround time.

15          Q.   It's not a term you're familiar with?

16          A.   I think I understand in concept what you're  
17   talking about but -- do you mean some type of  
18   gentleman's agreement to provide the information  
19   prior to the 28 days required by the statute?

20          Q.   Something like that.

21          A.   I'm not aware of any such requirement or  
22   agreement.



1           Q.    Okay.  You were aware obviously that your  
2   testimony was due, direct testimony due on March 1st,  
3   correct?

4           A.    That's correct.

5           Q.    So at line 357 of your direct when you  
6   say --

7           A.    I'm sorry.  You said 3...

8           Q.    357 of your direct.  You say, "At this  
9   point, IAWC's response to staff discovery with  
10  respect to the shared costs have been incomplete."

11          MR. LANNON:  Page 16, David.

12          THE WITNESS:  Thank you.

13                   Okay.  Yes.

14          Q.    BY MR. WHITT:  It would be more accurate to  
15  say that the responses hadn't been due yet, wouldn't  
16  it, as opposed to incomplete?

17          A.    If that is how you want to infer my  
18  testimony, you may do so.  I wrote what I wrote.  I  
19  believe that that's not an unfair assertion.

20                   Your statement is also correct.  It's  
21  not my testimony.

22          Q.    The fact of the matter is you didn't ask

1       for the information until February 23rd, correct?

2           A.    Uh-huh.

3           Q.    And if you'll refer to attachment B of your

4       rebuttal testimony.

5           A.    You said D or B?

6           Q.    B.

7           A.    B, yes.

8           Q.    There are various responses here to

9       questions about allocations among other things, and

10       these requests weren't served until five weeks after

11       you filed direct testimony, correct?

12          A.    I believe that's correct.

13          Q.    And despite not asking for or even having

14       information requested in attachments A and B, you had

15       what you needed to recommend to the Commission not

16       just to open an investigation but your testimony on

17       direct was that the Commission should find that

18       violations, in fact, had occurred?

19          A.    So your question is about my direct

20       testimony's recommendations on line 357, whatever

21       that page number was, 16, line 357.

22          Q.    That wasn't my question. My question was

1     that despite not having or in some cases even asking  
2     for the information that's shown in attachments A and  
3     B, you obviously had what you felt you needed to  
4     recommend at that time in direct testimony that the  
5     Commission find in this docket that the company  
6     violated Section 7-101. That was your recommendation  
7     in direct, correct?

8             A. That was my recommendation in direct. My  
9     recommendation in direct was based upon the evidence  
10    that had been provided by the company up to that  
11    point to include information provided to other staff  
12    witnesses.

13            I did not choose to provide all of  
14    those responses as attachments to my direct  
15    testimony. We were asking follow-up DRs, and we had  
16    some other information that appeared to be indicative  
17    of behavior that was in violation of the Act.

18            Q. Line 875 of your rebuttal.

19            A. Yes.

20            Q. You say, "Given IAWC's failure to provide  
21    information regarding this matter in the case which  
22    has deprived this Commission of a complete record, I

1 recommend that the Commission direct the  
2 investigation to include whether the IAWC AWW SCAIA  
3 is still in the public interest."

4 That's still your recommendation I  
5 take it, correct?

6 A. Yes.

7 Q. And you take issue with some of the  
8 responses indicating that what you would ask for was  
9 not in the company's possession, custody and control,  
10 correct?

11 A. I did say that.

12 Q. And you cited that answer as an example of,  
13 to use your words, misdirection and obfuscation,  
14 correct?

15 A. Can you refer me to where --

16 Q. In your rebuttal testimony, line 57, you  
17 say, "The witnesses have used misdirection to  
18 obfuscate the factual claims that I have made as  
19 outlined below."

20 A. That's a correct statement from my  
21 testimony, yes.

22 Q. Okay. And at line 130 of your rebuttal,

1     you say, "This apparent unwillingness to cooperate  
2     with a voluntary process raises concerns as to why  
3     IAWC and its affiliates are not being cooperative."  
4     That's your testimony as well, correct?

5             A.    Yes.

6             Q.    I'd like to ask you some questions about  
7     the materials that you believe the company has  
8     improperly withheld or not provided, and among that  
9     information at line 101, still in rebuttal, you say,  
10    "IAWC has chosen to not reveal information from its  
11    unregulated affiliate AWR to demonstrate AWW SC's  
12    interactions with AWR at the end of the quarter..."

13                   I guess just to paraphrase it, maybe  
14    that's easier, you've been critical of the company,  
15    that is Illinois-American, for not revealing  
16    information from AWR about AWR's interactions with  
17    the service company?

18             A.    Yes.

19             Q.    Line 105, you indicate that the company  
20    failed to provide any information from AWR regarding  
21    its business practices to show that it is not  
22    subsidizing AWR.

1                   You're referring to AWR business  
2 practices, is that right?

3           A.    Yes.

4           Q.    Line 126, you indicate that  
5 Illinois-American has not provided support for costs  
6 incurred by AWR directly.  In other words, AWR's  
7 cost, correct?

8           A.    Yes.

9           Q.    And at line 842, you're again critical of  
10 the company, again being Illinois-American, that it  
11 should have provided AWR training practices and  
12 procedures manuals, correct?

13          A.    Yes.

14          Q.    Now, can you think of any reason why  
15 Illinois-American would have in its possession any of  
16 the information about AWR that we just discussed in  
17 the absence of an approved affiliated interest  
18 agreement?

19          A.    I'm not certain that they would necessarily  
20 have this information prior to the request.  It's  
21 possible that their regulation entity or part of  
22 Illinois-American might decide its in their best

1 interest to make sure that the Commission's order in  
2 02-0517 is, in fact, being complied with, not just by  
3 themselves but by their affiliates.

4 Q. Well, it's your opinion, sir, is it not,  
5 that Section 7-101 of the Public Utilities Act  
6 prohibits utilities from interacting with their  
7 affiliates except through agreements approved by the  
8 Commission?

9 A. I'm not certain how you're using the term  
10 interacting, and specifically, they are excluded from  
11 transacting. That's my understanding of the law as  
12 it pertains to that or entering into agreements for  
13 such transactions without Commission approval. I  
14 don't know of any requirement that they can't  
15 interact with their unregulated affiliates as long as  
16 no transactions occur.

17 Again, I'm not an attorney, but that's  
18 my basic understanding of the Act.

19 So that interaction, the provision of  
20 information by AWR to Illinois-American would not in  
21 my mind be a violation of the Act if there was no  
22 charge associated with it.

1                   If they had to pay for it, then that  
2     might be, you know, might be something that lawyers  
3     would have to argue about, the Commission would have  
4     to make a determination on, but the fact of the  
5     matter is that AWR, my opinion, Illinois-American can  
6     ask for information, and if it's in the best interest  
7     of the corporate entity to provide that information,  
8     that they could provide that information free of  
9     charge, and there would not be a transaction. There  
10    would not be a service that cannot be provided.

11           Q.    Would that include customer lists where  
12    there's no customer charge?

13           A.    I'm talking about information flow from an  
14    unregulated entity to a regulated entity. I think it  
15    is exactly the opposite when we're talking about  
16    personal information from regulated ratepayers to an  
17    unregulated affiliate. I don't think they're even in  
18    the same camp.

19           Q.    Would Illinois-American have to interact  
20    with AWR to get information about AWR's business  
21    practices?

22           A.    Not necessarily.



1           Q.    Would it just miracle itself into  
2   Illinois-American's possession?

3           A.    Certainly.  It can go through their service  
4   company with which they do have an agreement, request  
5   information about certain things that may pertain to  
6   the services that the service company provides to  
7   Illinois-American and therefore use that as a way to  
8   get information.

9           Q.    So you're saying it would be appropriate to  
10   use the service company to do indirectly what it's  
11   not allowed to do directly?

12          MR. LANNON:  Mischaracterizes his testimony.  
13   Objection.

14          JUDGE JONES:  Response?

15          MR. WHITT:  I think I'm asking him to agree  
16   that that's what he just said, that if we didn't have  
17   access to it we could go through the service company,  
18   and I want to know in his opinion is it appropriate  
19   to go through the service company to get information  
20   indirectly that they can't get directly.

21          MR. LANNON:  And I believe that  
22   mischaracterizes his testimony.

1           MR. WHITT:  No, he says that's what we're  
2   doing.

3           MR. LANNON:  Not all information.

4           JUDGE JONES:  Any further argument?

5           MR. WHITT:  No, Your Honor.

6           JUDGE JONES:  Ms. Reporter, could you read the  
7   question back, please?

8                           (The reporter read back the last  
9                           question.)

10          JUDGE JONES:  It's not clear to me whether the  
11   question is asking the witness if that's what he was  
12   saying or would say if asked that question given that  
13   argument from counsel makes reference to the fact he  
14   was asking about what the witness said.

15                        So I'm not sure if he's asking the  
16   witness if that's what he said or if he's asking the  
17   witness something else, so the question is not clear,  
18   at least to me, when listened to in the context of  
19   the arguments, and so for that reason, I will sustain  
20   the objection but allow counsel to continue with that  
21   line of questioning.

22          Q.   BY MR. WHITT:  Mr. Sackett, you allege that

1 Illinois-American Water Company is in violation of  
2 Section 101 of the Public Utilities Act by doing  
3 indirectly through its service company what it can't  
4 do directly in the absence of an approved affiliated  
5 interest agreement. That's your testimony, is it  
6 not?

7 A. That is part of my testimony, yes.

8 Q. And you are a witness in the Utilities,  
9 Inc. case, Docket 11-0561, correct?

10 A. That's correct.

11 Q. And before we get to that, let me just  
12 finish up.

13 We were talking about interaction, and  
14 Illinois-American would have to interact with AWR to  
15 get information about direct costs incurred by AWR in  
16 the call center expansion, right?

17 A. You asked that question, yes.

18 Q. Is the answer yes?

19 A. No. I said no.

20 Can you read back my response?

21 Q. Well, would Illinois-American have to  
22 interact with AWR to get AWR's training, practice and

1 procedure manuals?

2 A. Not necessarily.

3 Q. The only other way they could get it is

4 through the service company?

5 A. Certainly.

6 Q. Okay. You testified in Docket 11-0561, did

7 you not?

8 A. Yes.

9 MR. WHITT: I apologize. I don't have copies.

10 I will make them.

11 May I approach, Your Honor?

12 JUDGE JONES: Yes.

13 Q. BY MR. WHITT: Mr. Sackett, I've come to

14 show you what I'll represent is a transcript of a

15 hearing on January 25, 2012 in Docket 11-0561, and

16 you are identified as a witness in the proceeding.

17 A. Uh-huh.

18 Q. And you recall testifying there, correct?

19 A. Yes.

20 Q. And you were asked the question, page 162

21 of the script, line 20, "What section of the Act,

22 Public Utilities Act, contains the language that you

1 think the companies have violated?"

2                   And we will skip the objections here,  
3 but at line 163, I'm sorry, page 163, line 8, your  
4 answer is, "Yes, I think I made that clear also on  
5 page 9, line 184." And you're quoting your direct  
6 testimony or rebuttal. "Utilities are precluded by  
7 Section 7-101 of the Public Utilities Act from  
8 interacting with their affiliates except through  
9 agreements approved by the Commission. Agreements  
10 must be in the public interest."

11                   Did I read that correctly?

12           A. That's correct.

13           MR. WHITT: Your Honor, we're not finished, and  
14 I think we may have some other business to finish  
15 before we conclude. I know the witness has  
16 limitations tonight. It would be my preference to  
17 keep going but I don't know that we have that option  
18 at this point.

19           JUDGE JONES: Off the record regarding  
20 scheduling-related matters.

21

22

1 (Whereupon an off-the-record  
2 discussion transpired at this  
3 time.)

4 JUDGE JONES: Back on the record.

5 We hereby break for five minutes.

6 (Recess taken.)

7 JUDGE JONES: Back on the record.

8 As I understand it, the parties' plan  
9 is that Mr. Kerckhove go back on the stand and  
10 complete his cross. Is that still the plan?

11 MR. REICHART: Yes.

12 MS. SATTER: Yes.

13 JUDGE JONES: All right. Was there anything  
14 that needed to be taken up before we actually do  
15 that?

16 MR. STURTEVANT: Your Honor, reviewing a few  
17 data responses here that if we can agree to them  
18 might resolve some cross, speed things along, and if  
19 we could possibly have a minute off the record to do  
20 that.

21 JUDGE JONES: Yes.

22 We hereby go off the record to provide

1 parties an opportunity to do that or try.

2 (Whereupon an off-the-record  
3 discussion transpired at this  
4 time.)

5 JUDGE JONES: Back on the record.

6 Was there something you wanted to do  
7 with respect to DRs?

8 MS. SATTER: Yes. We had an off-the-record  
9 conversation, and we have identified several data  
10 requests that we will just enter into the record  
11 rather than having a discussion about them. They are  
12 AG Cross Exhibit 21 which is the company's response  
13 to staff data request No. DLH 19.01, AG Cross 21A  
14 which is the company response, an attachment to the  
15 company response to staff data request 19.02, AG  
16 Cross Exhibit 22 which is the response to AG data  
17 request 4.16, and AG Cross Exhibit 23 which is the  
18 response to staff data request DAS-6.05.

19 So rather than ask questions about  
20 them, we would just offer them as cross exhibits, and  
21 then I would like to move on to the next set of  
22 questions and documents for which I do have

1 questions.

2 JUDGE JONES: Thank you.

3 Any objection to the admission of  
4 those AG cross exhibits consisting of DR responses?

5 MR. REICHART: No objection.

6 MR. STURTEVANT: No objection.

7 MS. SATTER: And I have copies if any party  
8 would like them. I could distribute them at the end.

9 JUDGE JONES: Let the record show that AG Cross  
10 Exhibits 21, 21A, 22 and 23 are admitted into the  
11 evidentiary record at this time.

12 (Whereupon AG Cross Exhibits 21,  
13 21A, 22 and 23 were admitted  
14 into evidence at this time.)

15 RICH KERCKHOVE

16 recalled as a witness herein, on behalf of  
17 Illinois-American Water Company, having been  
18 previously sworn on his oath, was examined and  
19 testified as follows:

20 CROSS-EXAMINATION

21 BY MS. SATTER: (Resuming)

22 Q. Mr. Kerckhove, are you familiar with FASB



1 Statement of Position 98-1?

2 A. Generally.

3 Q. And do you understand that that statement  
4 provides for accounting for software that's developed  
5 for internal use?

6 A. Generally, yes.

7 Q. Do you know if the business transformation  
8 costs have been recorded in conformance with SOP  
9 98-1, Statement of Position 98-1?

10 A. Recorded where?

11 Q. In this case for recovery.

12 A. Are you talking about where it's been  
13 recorded for Illinois-American?

14 Q. Okay. Let me clarify the question. First  
15 for American Water itself.

16 A. I believe I've testified earlier this  
17 morning that the costs are paid for by the service  
18 company, and then those costs are allocated out to  
19 each of the individual utility companies, and the  
20 various utility companies could record them as either  
21 capital or expense, so it depends on the operating  
22 utility.

1           Q.    Okay.  Have you been handed the company's  
2   response to AG data request 8.62?

3           A.    Yes.

4           Q.    And that's been marked as AG Cross  
5   Exhibit 24, correct?

6           A.    Yes.

7           Q.    And is it correct that -- I'm going to use  
8   the term SOP for Statement of Position -- that SOP  
9   98-1 does not provide for the accrual of equity  
10  AFUDC?

11          A.    I don't know.

12          Q.    Now, looking at AG Cross Exhibit 24, you  
13   see there's a total cost on the lower right-hand side  
14   of 262.2.  I assume that's million dollars, is that  
15   correct?

16          A.    That is correct.

17          Q.    And then there is also an asterisk,  
18   hardware cost of \$18.2 million.  That's excluded from  
19   the above project summary.  That's what this is, is  
20   that correct?

21          A.    That's correct.

22          Q.    So would it be correct that if you added

1 the 18.2 million and the 262.2 million, you would get  
2 the total estimated BT cost today of about  
3 280.4 million?

4 A. I think the question you're asking is -- if  
5 you're asking me what the cost is today, I don't know  
6 what the cost is today.

7 Q. In providing this response, did you  
8 understand that that was the cost as of the time the  
9 response was produced?

10 A. That's a different question that you've  
11 asked me.

12 Q. Well, that's what I asked it.

13 A. You are asking a complete itemization of  
14 the 300 million versus what you asked me a few  
15 moments ago which is what is the cost today.

16 Q. Okay. So the 300 million of BT costs, is  
17 it accurate to say that the BT system as of today is  
18 expected to cost about \$300 million for the entire  
19 set of companies?

20 A. Including these two other items that are  
21 asterisked, yes.

22 Q. Okay. So if you put the 262.2 million, the

1 18.2 million, and then the second, the double  
2 asterisk of 80.2 million, then you'll be at about 300  
3 million, is that correct?

4 A. About, yes.

5 Q. Okay. Thank you.

6 And these are the amounts for the  
7 total project, not simply for Illinois-American,  
8 right?

9 A. That is correct.

10 Q. Now, referring to the items that total the  
11 column under expense that totals 65.5 million, are  
12 these costs being expensed currently?

13 A. For Illinois-American?

14 Q. Yes.

15 A. These costs are being recorded to  
16 construction work in progress because the FASB  
17 recognizes that public utility regulation provides a  
18 basis for a different application of GAAP, and so  
19 therefore, we are proposing to record them as  
20 construction work in progress as capital items and  
21 requesting capital treatment.

22 Q. Would your answer be the same for costs

1     that are -- let me put it this way. Are those costs  
2     then not being expensed in the period they're  
3     incurred because of your CWIP treatment?

4             A. As these costs we'll say in that expense  
5     column are being incurred presently, those amounts  
6     for Illinois-American are being recorded to  
7     construction work in progress until such time as  
8     those projects go into service.

9             Q. And during that time, they earn a return  
10    consistent with what standard? Is that the AFUDC?

11            A. Well, we're not earning a return because  
12    they're not in rates yet.

13            Q. So they're deferred for future recovery?

14            A. We're requesting to earn a return on those  
15    in the current case.

16            Q. Do you know how much of these BT expense  
17    amounts are incurred prior to the test year?

18            A. Not offhand, no.

19            Q. And do you know how much of this expense  
20    column would be incurred during the test year?

21            A. No, I don't, not offhand.

22            Q. And do you know how much of that expense

1 column are incurred or expected to be incurred  
2 subsequent to the test year?

3 A. Again, not offhand, no.

4 Q. So the total amount is being deferred for  
5 future recovery rather than expense in the period, is  
6 that correct?

7 A. Well, it's being recorded to construction  
8 work in progress in either A, the current case, or B,  
9 the next rate proceeding.

10 Q. And would your answers be the same in  
11 connection with the preliminary software project  
12 stage activities in the expense column, the 10  
13 million there?

14 MR. STURTEVANT: Sorry. What answers are you  
15 referring to?

16 MS. SATTER: Strike the question.

17 Q. You have a data conversion cost row.

18 Are those a one time nonrecurring  
19 expense, the conversion cost?

20 A. Well, those items won't be -- I mean, once  
21 BT goes into production hours providing service, we  
22 won't be incurring those costs as BT.

1           Q.    Would you expect there to be additional  
2   data conversion costs that would be incurred  
3   subsequent to when BT begins operation?

4           A.    I would not think so.

5           Q.    Are training costs also a one time  
6   nonrecurring expense that would occur prior to the  
7   launch date of BT?

8           A.    Well, keep in mind, we are launching BT in  
9   multiple phases so there will be -- well, there's  
10   training going on right now, and there will be  
11   training prior to the implementation of the EAM and  
12   CIS projects, and we are also rolling out the EAM and  
13   CIS in phases across the various utility companies.

14                    So for Illinois-American for instance,  
15   ours will be rolled out in March of 2013.  Other  
16   utilities it will be later.

17           Q.    So will some of those costs occur during  
18   the future test year?

19           A.    Some of those costs.

20           Q.    And the future test year is the 12 months  
21   ending September 2013?

22           A.    There may be some of those costs past the

1 future test year, I'm not sure, but if there were,  
2 they would not be included in our case.

3 Q. So any costs that are projected to be  
4 incurred after September 2013 you're saying you have  
5 excluded from the Illinois request?

6 A. That is correct.

7 Q. Okay. But they are included in this total  
8 on AG Cross Exhibit 24?

9 A. It's included in the full 300 million, yes.

10 Q. Is the post-go-live stabilization period  
11 cost expected to be incurred in the test year for  
12 Illinois-American?

13 A. I believe that there may be some  
14 post-go-live stabilization period costs that will  
15 extend past the end of the test year and are  
16 therefore not included in our rate request.

17 Q. Did you offer into the record a statement  
18 of what costs are outside the test year and therefore  
19 not included in Illinois-American's rate request for  
20 the BT project?

21 MR. STURTEVANT: Are you asking the witness  
22 personally or --



1 MS. SATTER: Well, I mean personally as a  
2 representative of the company.

3 A. Well, in my adoption of Mr. Grubb's  
4 testimony, on page 5 of the, I don't know if I would  
5 call it his former IAWC Exhibit 4.00, but on question  
6 13 and answer, Mr. Grubb in the preparation of his  
7 prefiled testimony indicated that we would not be  
8 including the full amount.

9 Q. But you don't know if there's an  
10 itemization. He didn't offer an itemization as far  
11 as you know?

12 A. IAWC Exhibit 4.01 shows those amounts that  
13 are incurred in 2013 and 2014.

14 Q. Thank you. I do remember that exhibit now.

15 Now, previously we have marked AG  
16 Cross Exhibit 17. Do you have that with you still?  
17 I might have asked you a question about it before.  
18 It's the response to AG data request 8.68. If you  
19 need a copy, I've got an extra for your convenience.

20 A. 8.68? I have that.

21 Q. Yes.

22 A. I have that in front of me.

1           Q.    Okay.  Are the BT costs included in the AWW  
2   SC information technology charges described in this  
3   response or are these pre-BT costs and allocations?

4           A.    These amounts exclude anything for BT until  
5   a BT project goes into service, and then it includes  
6   the software/hardware maintenance cost.

7           Q.    Okay.  And that would be 2013 or is that  
8   2012?

9           A.    Yes.

10          Q.    Which year?  I'm sorry.

11          A.    2013 or 2012 because we do have BT projects  
12   going into service in 2012 and 2013.

13          Q.    Okay.  Thank you.

14                   And is it correct that the service  
15   company information technology department provides  
16   technology support to American Water's regulated and  
17   nonregulated subsidiaries?

18          A.    According to this response, yes.

19          Q.    And is it correct that the service  
20   company's information technology department charges  
21   are included in the service company costs that are  
22   requested for inclusion in the revenue requirement in

1     this case? In other words, the information  
2     technology department charges aren't broken out  
3     separately from the service company costs?

4             A. They're included in the service company  
5     line, yes.

6             Q. Okay. Now I want to switch gears a little  
7     bit and ask you some questions about taxes.

8                     In your testimony, you commented in I  
9     believe it was your direct testimony that the Service  
10    Company Tax and Treasury staff prepares projections  
11    of corporate items such as state and federal income  
12    tax, interest expense, and preferred incoming  
13    dividends.

14                    So do you know, was an analysis for  
15    the decision not to claim 2011 bonus tax depreciation  
16    made by service company personnel for  
17    Illinois-American?

18             A. I'm looking to -- where are you referring  
19    me to with regards to taxes?

20             Q. Well, my first question was whether the  
21    service company provided that advice or analysis for  
22    Illinois-American.

1           A.    I thought you read to me something to the  
2   effect that I say in my testimony that --

3           Q.    Page 7 of your direct testimony, line 128  
4   through 131, you give kind of an introduction to this  
5   issue in my view and say the Service Company Tax and  
6   Treasury staff also prepares the projections of  
7   corporate items such as state and federal income tax,  
8   interest expense, and preferred and common dividends,  
9   and then you continue that they will present it to  
10   senior management, which I assume means senior  
11   management to the operating company, is that correct?

12          A.    Yes.

13          Q.    Does it also include senior management of  
14   the parent company?

15          A.    Well, we're talking about the  
16   Illinois-American budget, so this goes to the accrual  
17   of the senior management in Illinois-American.

18          Q.    It does not go to senior management of the  
19   parent as well?

20          A.    Approval of the budget is made at the  
21   utility company level.

22          Q.    Now I'd like to show you a document that

1 we've marked as AG Cross Exhibit 25. This is the  
2 company's response to data request AG 2.119.

3 Do you recall this as an analysis of  
4 the decision not to claim the 211 bonus cash  
5 depreciation for Illinois-American?

6 A. This is a data response that was sponsored  
7 by me. It was prepared under my guidance and  
8 direction but it was not prepared by me personally.

9 Q. Now, for the record, the attachment is  
10 marked confidential so the attachment will be treated  
11 that way for purposes of filing, and I'm going to ask  
12 you some questions without saying the numbers on the  
13 theory that we can stay in public session that way.

14 Now, on the first page of the  
15 attachment, is it true that it shows American Water  
16 NOL carryforwards, and that would be in the bottom  
17 set of the table, projected federal NOL utilization.

18 A. Are you talking about the cover?

19 Q. Oh, I'm sorry. The first page of the  
20 attachment.

21 A. Oh, sorry.

22 Q. And you see the block, projected federal

1 NOL utilization is towards the bottom of the table?

2 A. Yes, I see that.

3 Q. And the NOL carryforwards, is that an  
4 amount that reduces tax liability?

5 A. Again, I did not prepare the attachments.  
6 These are prepared under my guidance and direction so  
7 I'm not real familiar with these.

8 Q. Okay. Well, tell me if you understand the  
9 document to mean this. The last line of the table  
10 says net projected taxable income, and can you  
11 confirm the first year where there is a net projected  
12 taxable income on this table?

13 Is that year a confidential matter? I  
14 think it's been discussed publicly.

15 MR. STURTEVANT: Yeah, I guess I'm not sure  
16 that it has. I don't know that we would necessarily  
17 want to get into at this point without further  
18 consultation with my client the year in which income  
19 is or is not anything.

20 MS. SATTER: Then I will not ask for the year.  
21 I'll just -- maybe you can just say, Mr. Kerckhove,  
22 is it correct that the table does not show taxable

1 income until the far right-hand part of the table  
2 which is the last year indicated at the very bottom?

3 A. It shows the net projected taxable income  
4 in the far right-hand column, 2029.

5 Q. Okay. And then if you can turn to the next  
6 page, and this page shows the net projected taxable  
7 income if Illinois-American uses the bonus  
8 depreciation for 2011.

9 Are you with me there?

10 A. Yes.

11 Q. Okay. So is it correct that the year of  
12 the first net projected taxable income is sooner than  
13 in the prior page?

14 A. Yes.

15 Q. And the third page of this document, does  
16 it show on the left-hand side, the last four lines,  
17 there's a box 50 percent bonus, 100 percent bonus,  
18 MACRS in total. Does that show the amount of 100  
19 percent bonus depreciation for 2011 in the first  
20 column for that year and for 2012 as well?

21 Well, let me restate the question.

22 If Illinois-American were to claim the

1 full 2011 bonus tax depreciation, is it correct that  
2 the amount of that deduction is shown under 100  
3 percent bonus in column 2011?

4 (Pause)

5 Q. Okay. Let me...

6 A. Just, I was going to say since this is in  
7 thousands and that line item you have to add three  
8 more zeros to it, that's more than what we would  
9 actually put into service in Illinois-American in  
10 that year.

11 Q. So really, this number is American Water  
12 Works companywide, isn't it?

13 A. It appears to be that way.

14 Q. Okay. So it's not for Illinois-American.  
15 It's for the entire organization.

16 A. Yes.

17 Q. Okay. Thank you.

18 Now I'd like to draw your attention to  
19 the data request AG.57, the company's response I'm  
20 marking as AG Cross Exhibit 26, and again, the  
21 attachment to this response is marked confidential,  
22 so rather than ask you the number itself, I'm just



1     going to refer you to the location of the number so  
2     that we stay public.

3                     Does this at the bottom of the exhibit  
4     show an estimated taxable income in 2011 as a  
5     positive number?

6             A.     For Illinois-American?

7             Q.     No, for the total company. I'm sorry.

8             A.     Yes, as an estimate.

9             Q.     Okay. And does it also -- does this  
10    exhibit on the left-hand side in the bottom block  
11    also show the various American Water utilities  
12    including Illinois-American and does that also show a  
13    positive taxable income estimated for 2011?

14            A.     Yes, it does. It even includes some  
15    companies we don't own anymore.

16            Q.     Oh, in the exhibit?

17            A.     Yes.

18            Q.     Are any of those utilities or are they  
19    non-utilities?

20            A.     They're utilities.

21            MS. SATTER: Now I'd also like you to look at  
22    another AG data request 5.7. We're marking it as AG

1 Cross Exhibit 27, and I would just ask for this to be  
2 admitted into the record having to do with  
3 Section 199 deduction.

4 JUDGE JONES: You're making that motion now  
5 with regard to 27?

6 MS. SATTER: Yes.

7 JUDGE JONES: Any objection to the admission of  
8 AG Cross 27?

9 MR. STURTEVANT: No, I don't have any objection  
10 to the admission of 27.

11 JUDGE JONES: All right. Let the record show  
12 that AG Cross Exhibit No. 27 is admitted into the  
13 evidentiary record.

14 (Whereupon AG Cross Exhibit 27  
15 was admitted into evidence at  
16 this time.)

17 Q. BY MS. SATTER: Now Mr. Kerckhove, I have a  
18 question about the interest cost from American Water.

19 Do you know whether the interest cost  
20 of American Water, the parent, is allocated to  
21 regulated subsidiaries or not?

22 A. I don't believe that the interest cost is

1 allocated. Each utility has its own debt.

2 Q. Okay. So the interest cost -- does the  
3 parent, AWW, have an interest cost for consolidated  
4 tax purposes?

5 A. I do not know.

6 Q. So then is it correct that interest costs  
7 are allocated to regulated subsidiaries for purposes  
8 of calculating the regulated subsidiaries federal  
9 income tax expense?

10 A. Well, based upon my answer to the last  
11 question, my answer to this question will be again I  
12 don't know.

13 Q. Oh, you don't know. I thought you said  
14 originally that the interest cost for the utilities  
15 kind of stays with the utilities and doesn't become  
16 consolidated in the tax.

17 A. You asked if American Water Works interest  
18 was allocated down to the utilities and which utility  
19 such as Illinois-American has its own debt, its own  
20 bonds and so, therefore, it has its own amount of  
21 interest expense.

22 Q. Okay. And --

1           A.    I don't know to what extent American Water  
2 Works has additional debt.

3           Q.    Okay.  So for example, if Illinois-American  
4 Water holds customer deposits and they have to pay  
5 interest to the consumer when the consumer takes the  
6 deposit back, is that interest expense then kept with  
7 Illinois-American?

8           A.    Illinois-American doesn't have customer  
9 deposits.

10          Q.    There's no customer deposits?

11          A.    No.

12          Q.    Do you know if there are any circumstances  
13 where Illinois-American holds its customers' money as  
14 a guarantee for future payment?

15          A.    I don't know.

16          Q.    Is there anybody that you have worked with  
17 in the service company that is responsible for  
18 developing the income tax expense of  
19 Illinois-American?

20          A.    Are you --

21          Q.    Well, let me strike that.

22                   Are you responsible for developing the

1 income tax expense for Illinois-American for  
2 ratemaking purposes?

3 A. I did the calculations on the C5 I believe  
4 it is, yes.

5 Q. And you made that calculation without  
6 regard to whether or not Illinois-American is part of  
7 a consolidated group for tax purposes?

8 A. For the rate case, the income tax  
9 calculation was prepared on a stand-alone basis for  
10 Illinois.

11 Q. Okay. And in making that stand-alone  
12 calculation, who made the decision to forego the 2011  
13 bonus depreciation deduction?

14 A. That's outside the test year so it didn't  
15 factor into my calculation.

16 Q. Isn't it correct that it would affect the  
17 rate base going forward? In other words, if you took  
18 the bonus depreciation in 2011, then wouldn't that  
19 reduce rate base in the test year?

20 A. For deferred income taxes?

21 Q. Yeah, because the deferred income taxes  
22 would be a deduction to rate base.

1           A.    Yes.

2           Q.    But you just don't look at that factor  
3 because it was outside the test year, is that  
4 correct?

5           A.    I did look at the items affecting deferred  
6 income taxes so, I mean, there is, for example, on  
7 the test year income tax calculation a book tax  
8 depreciation difference, and that factors into the  
9 calculation of the income taxes for the test year.

10          Q.    But you didn't include that 2011 bonus  
11 depreciation?

12          A.    Correct.

13          Q.    Are you able to identify American Water  
14 Company interest for the years 2008 through 2011? Do  
15 you have those tools to identify the interest for  
16 American Water Company for those years, the interest  
17 expense?

18          A.    American Water Company?

19          Q.    Yeah, the parent.

20          A.    No.

21          MS. SATTER: I just want to check and make sure  
22 that we offered the cross exhibits that we were

1 intending to offer and then I believe that's the  
2 close of my cross-examination.

3 (Pause)

4 MS. SATTER: Thank you.

5 JUDGE JONES: Ms. Satter, are you checking on  
6 the cross exhibits?

7 MS. SATTER: No, I believe we're complete.

8 JUDGE JONES: You've offered everything that  
9 you --

10 MS. SATTER: I would like to move for the  
11 admission of whatever cross exhibits we didn't move  
12 to admit, and I believe we started at 21 although  
13 really, with this witness we started a little sooner  
14 than that.

15 JUDGE JONES: Let's see, I think, let's see,  
16 Cross 15 was through Mr. Kerckhove and then 16, 17,  
17 18, 19 and 20 I believe were all Kerckhove, and then  
18 21 through 23 are admitted already, and then 24 and  
19 25, 26 and 27 are Kerckhove's, and those are the  
20 Kerckhove ones.

21 Are those all being offered to the  
22 extent they're not already in?

1           MS. SATTER: Right. I'd like to move the  
2 admission of all those exhibits to the extent they  
3 haven't previously been admitted, and similarly, if I  
4 didn't formally move for the admission of the cross  
5 exhibits we offered this morning with Mr. Rungren, I  
6 would move for the admission of those cross exhibits  
7 as well.

8           JUDGE JONES: Let's look at Mr. Kerckhove's  
9 first.

10          MS. SATTER: Actually, we have two outstanding  
11 issues; one was for AG Cross Exhibit 13, we were  
12 going to redact some of the answers which they  
13 requested, so I can submit that. Maybe you can admit  
14 it subject to that agreement.

15                   And then yesterday we offered a cross  
16 exhibit that included rate case expense Schedule  
17 C-10.1 for this case, for the last case, this was  
18 with Mr. Bernsen, 09-0319, and then we also included  
19 the page from Docket 07-0507, and I believe the  
20 company has an objection to the third page, the one  
21 for 07-0507. I don't know if you want to take that  
22 up now or later.



1           MR. STURTEVANT: Well, I guess if you're moving  
2   to enter all three pages into evidence now, then I'll  
3   take it up now.

4           MS. SATTER: That would be good.

5           MR. STURTEVANT: Or I can wait until later and  
6   we can take it up later.

7           MS. SATTER: I'm ready to move for the  
8   admission.

9           JUDGE JONES: Let's look at the Kerckhove cross  
10   exhibits.

11                   Are there any objections to the  
12   admission of any of those?

13           MR. REICHART: Your Honor, I know on a couple  
14   of the last few, and I think Ms. Satter has already  
15   agreed, the attachments that had confidential  
16   information, she was going to file them as  
17   confidential cross exhibits.

18           JUDGE JONES: Yeah, there is that.

19           MR. STURTEVANT: There was one more exhibit  
20   that we had agreed to redactions for, and I think  
21   subject to the agreed redactions, we were okay with  
22   that.

1                   So the only one I believe that was  
2     still outstanding was 13 and whatever the rate case  
3     expense one was.

4           MS. SATTER:    5.

5           MR. STURTEVANT:  No. 5.  So otherwise, we have  
6     no objection to the admission to AG's cross exhibits.

7           MS. SATTER:  I do think we'll be able to  
8     resolve the issues on 13.

9           JUDGE JONES:  So looking at the Kerckhove ones,  
10    are there any objections to any of the cross exhibits  
11    offered while Mr. Kerckhove was being cross-examined  
12    at one time or another?

13          MR. STURTEVANT:  Not from the company, Your  
14    Honor, subject to our arrangements with the counsel  
15    for the AG.

16          JUDGE JONES:  Anyone else?

17                        Let the record show there are not.

18                        So I believe the AG cross exhibits  
19    that were identified while Mr. Kerckhove was  
20    testifying, 15, 16, 17, 18, 19 and 20, 24, 25, 26 and  
21    27, would be admitted into the evidentiary record  
22    subject to the submission of both public and

1 confidential versions where applicable under the AG's  
2 motion.

3 Any questions about that before I make  
4 a ruling?

5 Let the record show that those AG  
6 cross exhibits are admitted into the evidentiary  
7 record subject to the filing of both confidential and  
8 public versions where applicable.

9 (Whereupon AG Cross Exhibits 15  
10 thru 20 and 24 thru 26 were  
11 admitted into evidence at this  
12 time.)

13 MS. SATTER: Just for the record, my office I  
14 guess will be closed on Friday and Monday because of  
15 the GA so we probably will not file it quite as  
16 promptly as we would have otherwise.

17 MR. LANNON: NATO.

18 MS. SATTER: Oh, NATO.

19 JUDGE JONES: I guess I should note 27 was  
20 already admitted anyway.

21 Now, I don't know if you want to do  
22 anything with the other AG exhibits that weren't

1     already ruled upon, but 13 I guess is a held exhibit.  
2     That was through Mr. Rungren.

3             MS. SATTER: I thought everything else was  
4     admitted except for No. 5.

5             JUDGE JONES: Right. Then 5 through  
6     Mr. Bernsen was noted as a held exhibit at this  
7     point, so I guess those are still awaiting further  
8     attention.

9                     All right. Thank you.

10                    Anything else regarding any of that?

11                    All right. Off the record regarding  
12     scheduling.

13             MR. STURTEVANT: Your Honor, I believe that  
14     Mr. Alperin had some questions.

15             JUDGE JONES: Oh, you're right, you're right.

16             MR. LANNON: And I had one very quick. No  
17     follow-up questions; just one.

18             MR. ALPERIN: May I proceed, Your Honor?

19             JUDGE JONES: Yes, please do.

20                    Mr. Kerckhove, good afternoon.

21             THE WITNESS: Good afternoon.

22                    CROSS-EXAMINATION

1 BY MR. ALPERIN:

2 Q. Do you know if the service company receives  
3 any interest amounts from Illinois-American?

4 A. Not to my knowledge.

5 Q. Okay. So with respect to these true-up  
6 payments that we heard about earlier today, are you  
7 aware of whether the service company receives any  
8 interest from Illinois-American Water on those  
9 true-up payments?

10 A. No, I'm not.

11 MR. ALPERIN: Okay. Those are all the  
12 questions I have. Thank you, sir.

13 JUDGE JONES: Thank you, Mr. Alperin.

14 One moment.

15 Mr. Balough, did you have any  
16 questions for this witness?

17 MR. BALOUGH: No, Your Honor.

18 JUDGE JONES: I think that covers the cross of  
19 all --

20 MR. LANNON: Your Honor, just one follow-up  
21 question for this witness, and I will not do any  
22 follow-up. Whatever the answer is, I'll go with it.

1 JUDGE JONES: You already crossed him once.

2 MR. LANNON: That's right, Your Honor. I don't  
3 think the company will mind though.

4 JUDGE JONES: Any objection?

5 MR. STURTEVANT: I guess if I have an objection  
6 to the question, I'll enter the objection after the  
7 question is asked.

8 JUDGE JONES: All right. Any objection to the  
9 process?

10 MR. STURTEVANT: No.

11 MR. LANNON: I know it's unusual.

12 CROSS-EXAMINATION

13 BY MR. LANNON:

14 Q. Do you know anything about ruggedized  
15 equipment?

16 A. Yes. These are computers that our field  
17 service representatives have them with, and so  
18 they've been ruggedized. They are tough books.

19 MR. LANNON: Thank you.

20 JUDGE JONES: Is there any redirect?

21 MR. STURTEVANT: If you can give me just a  
22 second.

1                   No, Your Honor, no redirect.

2           JUDGE JONES: All right. Thank you,

3   Mr. Kerckhove. Your examination is finished, and

4   your leaving the witness stand is not subject to

5   returning to it, at least under any current

6   scheduling.

7                   (Witness excused.)

8           JUDGE JONES: All right. Off the record

9   regarding scheduling matters.

10                   (Whereupon an off-the-record

11                   discussion transpired at this

12                   time.)

13           JUDGE JONES: Back on the record.

14                   Does staff call a witness?

15           MR. OLIVERO: Yes, Your Honor. We would call

16   Mike Ostrander to the stand.

17                   (Whereupon the witness was sworn

18                   by Judge Jones.)

19           JUDGE JONES: Mr. Olivero?

20           MR. OLIVERO: Thank you, Your Honor.

21                   Good afternoon, Mr. Ostrander.

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

MIKE OSTRANDER

called as a witness herein, on behalf of staff of the  
Illinois Commerce Commission, having been first duly  
sworn on his oath, was examined and testified as  
follows:

DIRECT EXAMINATION

BY MR. OLIVERO:

Q. Would you please state your full name and  
spell your last name for the record?

A. My name is Mike Ostrander. That's spelled  
O-s-t-r-a-n-d-e-r.

Q. And by whom are you employed?

A. I'm employed by the Illinois Commerce  
Commission as an accountant in the Financial Analysis  
Division.

Q. And, Mr. Ostrander, have you prepared  
written testimony for purposes of this proceeding?

A. Yes, I have.

Q. And do you have before you a document which  
has been marked for identification as ICC Staff  
Exhibit 3.0 entitled Direct Testimony of Mike  
Ostrander which consists of a cover page, a table of



1 contents, nine pages of narrative testimony,  
2 Schedules 3.1 through 3.5 with Schedule 3.1 having  
3 both confidential and public versions?

4 A. Yes.

5 Q. And are those true and correct copies of  
6 the direct testimony that you prepared?

7 A. Yes.

8 Q. And do you also have before you a document  
9 marked for identification as ICC Staff Exhibit 11.0  
10 entitled Confidential Rebuttal Testimony of Mike  
11 Ostrander which consists of a cover page, a table of  
12 contents, 11 pages of narrative testimony, attachment  
13 A and Schedules 11.1 through 11.3 with Schedule 11.1  
14 having both a confidential and public version?

15 A. Yes, I do.

16 Q. And are those true and correct copies of  
17 the rebuttal testimony that you prepared?

18 A. Yes.

19 Q. And do you also have before you a document  
20 which has been marked for identification as ICC Staff  
21 Exhibit 16.0 entitled Confidential Revised  
22 Supplemental Rebuttal Testimony of Mike Ostrander

1     which consists of a cover page, a table of contents,  
2     six pages of narrative testimony, Attachment B having  
3     both confidential and public versions, and  
4     Schedule 16.1 with Schedule 16.1 also having  
5     confidential and public versions?

6             A.    Yes, I do.

7             Q.    And are those true and correct copies of  
8     the revised supplemental rebuttal testimony that you  
9     prepared for this proceeding?

10            A.    Yes.

11            Q.    Mr. Ostrander, as you sit here today, do  
12    you have any corrections to make to your prepared  
13    direct rebuttal or revised supplemental rebuttal  
14    testimony?

15            A.    Yes, I do.

16            Q.    And what would those be?

17            A.    I am revising my recommended amounts of  
18    allowable rate case expense for this case. I'm  
19    recommending the Commission approve rate case expense  
20    in the amount of \$2,541,052.

21                    The revisions of the recommended  
22    amount is based on additional information provided in

1 the company's surrebuttal testimony and my responses  
2 to the company's data requests 8.01, 8.02 and 8.03 of  
3 which responses were distributed on May 15th.

4 Q. And the change that you noted to the amount  
5 of rate case adjustment, would that be to your  
6 revised supplemental rebuttal testimony?

7 A. Yes, sir.

8 Q. Okay. Thank you.

9 Is the information contained in ICC  
10 Staff Exhibits 3.0, 11.0 and 16.0 and the  
11 accompanying schedules and attachments true and  
12 correct with the one correction that you made today  
13 to the best of your knowledge?

14 A. Yes.

15 Q. And if you were asked the same questions  
16 today, would the answers contained in your prepared  
17 testimony be the same?

18 A. Yes.

19 MR. OLIVERO: Your Honor, at this time subject  
20 to cross-examination, we would ask for admission into  
21 the evidentiary record of Mr. Ostrander's prepared  
22 direct testimony, his rebuttal testimony, and his

1 revised supplemental rebuttal testimony along with  
2 all the schedules and attachments, and I would note  
3 for the record that the exhibits were or the  
4 testimony was filed on the Commission's e-Docket  
5 system on March 1, 2012 for the direct testimony,  
6 April 26, 2012 for the rebuttal testimony, and May 7,  
7 2012 for the revised supplemental rebuttal testimony,  
8 and we would tender Mr. Ostrander for  
9 cross-examination.

10 JUDGE JONES: Those changes that he made on the  
11 record today, they are to what testimony?

12 MR. OLIVERO: They were to the revised, the  
13 confidential revised supplemental rebuttal testimony,  
14 and actually, staff will go ahead and file a version  
15 on e-Docket with that correction here in the next  
16 couple days.

17 MS. ZEHR: Mr. Olivero, those are the  
18 attachments to DR responses, is that right?

19 MR. OLIVERO: Well, the attachments we're not  
20 going to be changing. I think we were going to put  
21 those in. It was the dollar amount that he had in  
22 his testimony which wouldn't reconcile with what he

1       has in those schedules.

2               MS. ZEHR:   Thank you.

3               MR. OLIVERO:   You're welcome.

4               JUDGE JONES:   Are there any objections to the

5       admission of -- let me back up.

6                       You say you're offering those subject

7       to cross, is that what you said?

8               MR. OLIVERO:   Correct, Your Honor.

9               JUDGE JONES:   Do you want them ruled on now

10       subject to cross or ruled upon later?

11               MR. OLIVERO:   It doesn't matter.   We can do it

12       later.

13               JUDGE JONES:   And the witness is tendered for

14       cross did you say?

15               MR. OLIVERO:   Yes, Your Honor.

16               MS. ZEHR:   Good evening, Mr. Ostrander.   My

17       name is Anne Zehr.   How are you today?

18               THE WITNESS:   Very good.   Good evening.

19               MS. ZEHR:   And I hope you don't hold it against

20       me personally that I'm saying good evening and not

21       good afternoon.

22               THE WITNESS:   No, ma'am.

1 MS. ZEHR: I'm one of the attorneys on behalf  
2 of the Illinois-American Water Company in this  
3 proceeding sir, and I'd like to start out by going  
4 through your background.

5 CROSS-EXAMINATION

6 BY MS. ZEHR:

7 Q. I understand you're an accountant in the  
8 accounting department of the Illinois Commerce  
9 Commission, is that right?

10 A. Yes.

11 Q. And you're also a certified public  
12 accountant or CPA?

13 A. Yes.

14 Q. You're also a certified internal auditor,  
15 sir?

16 A. Yes.

17 Q. And you've been employed as a member of the  
18 Commission staff for a little over six years since  
19 March of 2006, do I have that right?

20 A. Yes.

21 Q. And does anyone report to you?

22 A. No.

1 Q. Do you report to anyone?

2 A. I do.

3 Q. What is the name of your immediate

4 supervisor, sir?

5 A. Mary Selvaggio.

6 Q. I'm sorry. Could you repeat her last name?

7 A. Selvaggio spelled S-e-l-v-a-g-g-i-o.

8 Q. Thank you.

9 And before you were employed with the

10 Commission, you were in another public accounting

11 position, is that right?

12 A. That's correct.

13 Q. And where exactly?

14 A. It was in Davenport, Iowa, the firm of

15 McGladrey, Hanson & Dunn.

16 Q. And that's a CPA firm, sir?

17 A. Yes, ma'am.

18 Q. Could you repeat the name of that firm for

19 me, please?

20 A. McGladrey, Hanson & Dunn.

21 Q. Could I say MHD and you'd know what I'm

22 referring to?

1           A.    That would be all right.

2           Q.    Okay.  I'll refer to it as MHD if you're  
3   okay with that.

4                   And tell me about your position with  
5   MHD, sir?  What was your title?

6           A.    With McGladrey, that was my first position  
7   out of college in 1977.  I was with that firm or  
8   actually entered in as a staff accountant.

9           Q.    As a staff accountant?

10          A.    Uh-huh.

11          Q.    And about how many accountants were  
12   employed by MHD ballpark?

13          A.    McGladrey is a regional firm.  Back in the  
14   late '70s, anywhere from 500 to a thousand.

15          Q.    Okay.  So a large firm.

16                   And can you tell me about the  
17   organizational staffing?  For instance, you said you  
18   were a staff accountant.

19          A.    Yes.

20          Q.    I assume there were partners?

21          A.    Yes.

22          Q.    And were there other levels of accountants?



1           A.    Yes.  I believe that there were, for  
2   instance, on the audit side of the shop, that there  
3   was staff accountants, and then after a certain  
4   number of years and experience move up to in charge  
5   accountant from there.

6           Q.    I'm sorry.  I missed that?

7           A.    In charge accountant.

8           Q.    In charge accountant.

9           A.    And then from there into manager position  
10   and then partner.

11          Q.    And were there practice groups within the  
12   firm?

13          A.    Yes, ma'am.

14          Q.    And the individuals practicing in those  
15   groups had a specialized knowledge regarding a  
16   particular area of accounting, is that right?

17          A.    Yes.

18          Q.    Now, you mentioned the various levels of  
19   accountants within the firm, and you said that their  
20   designations were based on their number of years of  
21   experience.  Do I have that right?

22          A.    Yes.

1           Q.   And do the different levels of accountants  
2 charge different hourly billing rates?

3           A.   I wouldn't know.

4           Q.   Do you recall what your hourly billing rate  
5 was, sir?

6           A.   No.

7           Q.   Before you were with MHD -- well, I'm  
8 sorry. You said you were with MHD right out of  
9 college.

10                   Have you ever been employed with any  
11 other private accounting firm?

12           A.   No.

13           Q.   Okay. You said you didn't know about  
14 whether or not the different levels of accountants at  
15 the firm had different billing rates.

16                   Just generally in your experience as a  
17 CPA serving on the Commission staff and then also  
18 your experience in the private field, is your  
19 understanding that accounting firms in general have  
20 different billing rates for the different levels of  
21 accountants employed?

22           A.   Yes.

1           Q.    And those rates, it would be your general  
2   understanding, correct me if I'm wrong, would be  
3   based on the years of experience or levels of  
4   expertise, sir, of the various accountants?

5           A.    Yes.   When I worked for a private company,  
6   I was the head of management reporting which we went  
7   through a leverage buyout, initial public offering,  
8   and then also became an SEC registrant.   Part of my  
9   duties was SEC reporting but also coordinating the  
10  external audit, KPMG and CPA firms like that.

11                   As such, as part of the budgeting for  
12  the cost of those external audits, different billing  
13  rates for different levels of the CPA firm members  
14  were made available, so, yes, I'm well aware of it.

15          Q.    General practice?

16          A.    Yes.

17          Q.    And what year was that, sir?

18          A.    That would have been late '90s.

19          Q.    Would you agree it's appropriate to have  
20  different hourly billing rates based on different  
21  levels of experience or expertise?

22          A.    Yes.

1           Q.   Now, Mr. Ostrander, your counsel previously  
2   mentioned some updates to some schedules that you  
3   prepared related to your corrected surrebuttal  
4   testimony I believe.

5           A.   Yes.

6           Q.   And you provided those schedules in  
7   response to a number of DRs issued by the company, is  
8   that correct?

9           A.   Yes.

10          Q.   And I've actually previously provided you  
11   with what's been marked as IAWC Exhibits 3 through 5.

12          A.   I have them.

13          Q.   Okay. And you'll see that Exhibit No. 5,  
14   there's actually a public and confidential version of  
15   that document.

16          A.   Yes.

17          Q.   Okay. And are those the responses to which  
18   you previously, your counsel, excuse me, previously  
19   referred?

20          A.   Yes.

21          Q.   And were those responses prepared by you or  
22   at your direction, sir?

1           A.    Yes.

2           Q.    Mr. Ostrander, in your six or so years at  
3   the Commission, have you served as a witness on rate  
4   cases other than the instant proceeding?

5           A.    Yes.

6           Q.    And as a member of the Commission staff  
7   serving on the various rate cases before the  
8   Commission, do you generally stay informed of the  
9   Commission's final orders in other rate cases?

10          A.    Yes.

11          Q.    And those would be rate cases for which you  
12   haven't been assigned to be a witness or assist, is  
13   that right?

14                    Let me rephrase the question.   That  
15   was confusing.

16          A.    Thank you.

17          Q.    You said as a general practice you stay  
18   abreast of Commission orders in rate cases.  Is that  
19   a fair characterization?

20          A.    Yes.

21          Q.    And my question was do you stay abreast of  
22   orders only for the cases that you are assigned to or

1 to other cases as well?

2 A. Other cases also.

3 Q. Okay. Thank you.

4 And that probably helps you do your  
5 job better. Is that fair?

6 A. That's right.

7 Q. Keeps you more informed.

8 And you would agree with me that it's  
9 helpful to be aware of what the Commission is doing  
10 in other proceedings when you evaluate a utility's  
11 rate increase request perhaps?

12 A. I review it, yes.

13 Q. And perhaps also helps you as you prepare  
14 your testimony to be aware of what the Commission is  
15 doing in other rate cases?

16 A. Yes.

17 Q. Would you agree with me then, sir, that as  
18 a member of the Commission staff, there's some value  
19 to you staying informed regarding the Commission's  
20 rate case orders in other cases?

21 A. Value?

22 Q. Yes, sir.

1           A.    I don't know what you mean by value.

2           Q.    Well, you told me that staying abreast of  
3   these other Commission orders helps you do your job.  
4   It's helpful to you when you are preparing a  
5   utility's rate increase request and in preparing your  
6   testimony. I assume that adds a value to you. It's  
7   helpful. And I'm asking if you'll agree to that,  
8   that that's a fair characterization?

9           A.    The other orders do help me do my job, yes.

10          Q.    Would you agree with me that it would be  
11   helpful to utilities who are required to seek  
12   Commission approval of rate increases to also stay  
13   abreast of what the Commission is doing in cases  
14   other than the ones in which those utilities are  
15   involved?

16          A.    Yes.

17          Q.    Thank you.

18                   Now, you prepared testimony that was  
19   filed in this proceeding, is that correct?

20          A.    Yes.

21          Q.    And did you ask your supervisor,  
22   Ms. Selvaggio, did you ask her to review that

1 testimony before it was filed?

2 A. I did not ask. It's a standard procedure  
3 that she reviews my testimony, so yes.

4 Q. Fair enough.

5 And did she review it?

6 A. Yes.

7 Q. I don't want to get anyone in trouble here.  
8 Now, I don't care what she said. All I want to know  
9 is whether or not she provided you feedback.

10 A. Yes.

11 Q. Was that feedback helpful?

12 A. Yes.

13 Q. Would you consider her feedback valuable,  
14 sir?

15 A. In some cases, yes.

16 Q. And in what cases not, sir?

17 A. When we don't agree about punctuation.

18 Q. I'm familiar with that dispute.

19 And one of the reasons that you would  
20 consider her feedback helpful and valuable with the  
21 exception of punctuation would be because of her  
22 experience? Would that be fair?



1           A.    That would be fair, yes.

2           Q.    Now, did you ask any of your co-workers to  
3 look at your testimony before it was filed?

4           A.    No.

5           Q.    Did you ask anyone else to look at your  
6 testimony before it was filed?

7           A.    No.

8           Q.    Now, when you're serving as a witness for  
9 the staff in rate cases, do you ever bounce ideas off  
10 of other co-workers related to the substance of your  
11 testimony in various cases?

12          A.    Yes.

13          Q.    And that would be co-workers -- well, let  
14 me ask it better.

15                    Would that be co-workers that are not  
16 assigned to the same case? Would you limit it I  
17 guess to co-workers that are assigned to that case?

18          A.    No.

19          Q.    And that's helpful, right?

20          A.    It depends.

21          Q.    Okay. It depends on...

22          A.    Whether someone is giving me a straight

1     answer or if they're fooling with me or they have no  
2     subject matter. Again, it just depends upon what  
3     sort of information I get back.

4           Q.    I understand. The information you get back  
5     may have a level of benefit to it for lack of a  
6     better word?

7           A.    Usefulness, yes.

8           Q.    But the act of engaging in the discussion  
9     of getting feedback is generally helpful?

10          A.    Yes.

11          Q.    Okay. And would you bring questions,  
12     ideas, whatnot, to your co-workers because you value  
13     their input?

14          A.    Yes.

15          Q.    Fair statement. Okay.

16                   Now, I don't want to know anything  
17     you've discussed with your counsel. All I want to  
18     know is whether your counsel reviewed your testimony  
19     before it was filed.

20          MR. OLIVERO: Your Honor, I'm going to object  
21     to this. I'm not exactly sure what this has to do  
22     with anything regarding the testimony that

1 Mr. Ostrander provided regarding the rate case  
2 expense and that. I mean, I think we've established  
3 that he did have a supervisor, but I think this is a  
4 little further afield from what I think is  
5 appropriate cross.

6 MS. ZEHR: In a few questions it will become  
7 evident, Your Honor, where I'm going. I can do it  
8 that way or I can give you the straight answer.

9 JUDGE JONES: Is your objection limited to  
10 relevancy or foundation grounds?

11 MR. OLIVERO: Well at this point here, yes.

12 JUDGE JONES: Well, I'll allow you to continue  
13 since you've indicated in response to a relevancy or  
14 foundation objection that you may tie it up, but in  
15 the meantime, if there's some questions that come up  
16 that Mr. Olivero believes needs objecting to, then  
17 we'll take that up.

18 MR. OLIVERO: Thank you.

19 MS. ZEHR: Would you like me to repeat the  
20 question or would you like it read back?

21 THE WITNESS: My counsel did review my  
22 testimony, yes.

1 Q. Thank you, sir.

2 Your supervisor, Ms. Selvaggio, did  
3 not file testimony in this case, is that correct?

4 A. That's correct.

5 Q. And your counsel did not file testimony in  
6 this case, am I correct?

7 A. That's correct.

8 Q. And would you agree with me, sir, that even  
9 though the individuals I have just named did not file  
10 testimony, they, nevertheless, provided value to you  
11 in preparing your testimony in this case, sir?

12 MR. OLIVERO: Your Honor, I guess I'm going to  
13 object. We're back to that value question that  
14 Mr. Ostrander had taken issue before with in terms of  
15 I guess the phrase "what is value."

16 MS. ZEHR: Well, I believe he's testified that  
17 his supervisor's input was not only helpful but also  
18 valuable to him; that to bounce back ideas with folks  
19 not involved in the rate case, though I didn't  
20 specifically mention whether their testimony had been  
21 filed, is also valuable to him. He values their  
22 input.

1                   So I believe that he's already said  
2   that...  
3           MR. OLIVERO:  I thought he said useful, but I  
4   could be wrong.  
5           MS. ZEHR:  I think we've used several terms,  
6   helpful, useful, valuable.  
7           JUDGE JONES:  Is the objection still being  
8   made?  
9           MR. OLIVERO:  What was the question again?  Can  
10   you read that back?  
11                               (The reporter read back the last  
12                               question.)  
13           MR. OLIVERO:  That's fine.  I'll withdraw the  
14   objection.  
15           THE WITNESS:  And I honestly forgot the  
16   question.  
17                               (The reporter reread the last  
18                               question.)  
19           THE WITNESS:  Yes.  
20           MS. ZEHR:  Thank you.  
21           Q.  Do you keep records of your time spent  
22   working on this proceeding?

1           A.    No, I don't.

2           Q.    I'm going to pose to you a quick

3   hypothetical.  It's an easy one but let me know if I

4   lose you.

5                    You have a technical question and you

6   hire three experts to answer it.  Expert A charges

7   you a hundred dollars an hour.  He takes 25 hours to

8   analyze your technical question and reach an answer.

9   His total expense is \$2,500.

10                   Does my math sound right?

11          A.    Yes, ma'am.

12          Q.    Thank you.  I'm not an accountant.

13                    Okay.  Expert B charges you \$250 an

14   hour.  He takes ten hours to analyze your technical

15   question and reached the very same answer as expert

16   A.

17          A.    Uh-huh.

18          Q.    His total expense is \$2,500.

19                    Math still sound good to you?

20          A.    Could you repeat your math?

21          Q.    Sure.  \$250 an hour times ten hours.

22          A.    And for item A was what?

1           Q.    I'm sorry.  Expert A was \$100 an hour, 25  
2   hours.

3                        Would you agree with me that even  
4   though expert B's hourly rate is higher than expert  
5   A's hourly rate, the bills are the same?

6           A.    Mathematically, yes.

7           Q.    Now, expert C charges you \$300 an hour.  He  
8   takes five hours to analyze your technical question  
9   and reached the very same answer as experts A and B.  
10   His total expense is \$1,500.

11          A.    Yes.

12          Q.    Would you agree with me, sir, that even  
13   though expert C has the highest hourly rate, his  
14   total bill is the lowest?

15          A.    Yes.

16          Q.    Whose bill would you prefer to pay?

17          MR. OLIVERO:  Your Honor, I guess I'm going to  
18   object to the hypothetical in terms of is it just a  
19   dollar amount that we're looking at, which bill?  I  
20   think anybody would prefer to pay the least amount  
21   but I don't think there's any frame of reference for  
22   I guess the different hours, the different hourly

1 rates or that.

2 MS. ZEHR: Was it a relevance objection?

3 MR. OLIVERO: Well, yeah, to tie things up, I  
4 mean, if it's a question of whose bill would you  
5 prefer.

6 MS. ZEHR: I feel that you keep me from the  
7 punch line before I ask my question. I don't know if  
8 he answered whose billing he'd prefer.

9 JUDGE JONES: Are you withdrawing your  
10 objection?

11 MR. OLIVERO: I guess I'll allow some leeway on  
12 the next question but --

13 THE WITNESS: I guess I'll put some context  
14 around it. That is, I'd pick expert A to do my  
15 personal tax return because he's my best buddy even  
16 though expert C is the least cost, but if my wife had  
17 the say, we'd take expert C no doubt.

18 Q. BY MS. ZEHR: Now, you've added some  
19 factors in there that I didn't have in my  
20 hypothetical; for instance, your buddy that does your  
21 taxes.

22 What if you're needing your taxes



1 prepared one week prior to April 15th. You haven't  
2 sought an extension, don't intend to do so.

3 A. Not a problem. He can get it done.

4 Q. He's your buddy. But your wife would  
5 prefer to pay expert C's bill hands down.

6 A. Yes.

7 Q. In any event, would you agree with me, sir,  
8 that hourly rate is not the only factor to consider  
9 in determining the total level of an expense?

10 A. Yes.

11 Q. Thank you.

12 Have you reviewed the testimony filed  
13 by company witness James I. Warren in this  
14 proceeding, and that would be IAWC Exhibit 13.00R  
15 which is Mr. Warren's rebuttal testimony and 13.00SR  
16 which is Mr. Warren's surrebuttal testimony?

17 A. Yes, I did read it.

18 Q. All right. And the company has identified  
19 Mr. Warren has an expert on tax issues relating to  
20 publicly regulated utilities, is that right? You  
21 agree?

22 A. Yes.

1           Q.   And his testimony speaks of various tax  
2   related topics such as bonus depreciation,  
3   consolidated tax filings, FIN 48.

4                   Do you understand what I mean when I  
5   say FIN 48?

6           A.   Yes.

7           Q.   And the domestic production activities  
8   deduction.  Would you agree?

9           A.   Yes.

10          Q.   Now on page 4 of your revised supplemental  
11   rebuttal testimony, and that's ICC Staff Exhibit 16.0  
12   Supplemental Revised, at lines 67 to 69, you say,  
13   Mr. Warren was retained to address tax issues related  
14   to -- and then I'm going to shorten it -- FIN 48, is  
15   that correct?

16          A.   Yes.

17          Q.   Would you agree with me though,  
18   Mr. Ostrander, that Mr. Warren testified to issues  
19   other than solely FIN 48?

20          A.   Yes.

21          MS. ZEHR:  At this time, I'd move for the  
22   admission of IAWC Cross Exhibits 3 through 5, Your

1 Honor.

2 No further cross.

3 MR. OLIVERO: No objection to the admission.

4 JUDGE JONES: Are there any objections to the  
5 admission of IAWC Cross Exhibits 3, 4 and 5?

6 MR. O'BRIEN: People have no objection.

7 JUDGE JONES: Let the record show that IAWC  
8 Cross Exhibits 3, 4 and 5 are admitted into the  
9 evidentiary record. 5 has a confidential and a  
10 public version.

11 (Whereupon IAWC Cross Exhibits  
12 3, 4 and 5 were admitted into  
13 evidence at this time.)

14 JUDGE JONES: And does IAWC plan to file these  
15 on e-Docket?

16 MS. ZEHR: Yes, Your Honor.

17 JUDGE JONES: Thank you.

18 I believe that's all the cross for the  
19 witness. Let me just double check.

20 Is there any other cross for this  
21 witness?

22 Is there any redirect?

1           MR. OLIVERO:  No, Your Honor.

2           JUDGE JONES:  Let the record show that the  
3 examination of Mr. Ostrander is over.

4           THE WITNESS:  Thank you, Your Honor.  I  
5 apologize for the startup challenges.

6                           (Witness excused.)

7           JUDGE JONES:  Off the record.

8                           (Whereupon an off-the-record  
9 discussion transpired at this  
10 time.)

11          JUDGE JONES:  Back on the record.

12                          Does staff have another witness to  
13 call?

14          MR. LANNON:  Yes, Your Honor.

15                          Staff would call staff witness Janis  
16 Freetly.

17                          (Whereupon the witness was sworn  
18 by Judge Jones.)

19          JUDGE JONES:  Off the record.

20                          (Whereupon an off-the-record  
21 discussion transpired at this  
22 time.)

1 JUDGE JONES: Back on the record.

2 JANIS FREETLY

3 called as a witness herein, on behalf of staff of the  
4 Illinois Commerce Commission, having been first duly  
5 sworn on her oath, was examined and testified as  
6 follows:

7 DIRECT EXAMINATION

8 BY MR. LANNON:

9 Q. Can you please spell your full name for the  
10 record spelling your last name?

11 A. My name is Janice Freetly (F-r-e-e-t-l-y).

12 Q. And who is your employer and what is your  
13 business address?

14 A. I'm employed by the Illinois Commerce  
15 Commission in the Finance Department. My address is  
16 527 East Capitol Avenue, Springfield, Illinois  
17 62701.

18 Q. And do you have before you a document  
19 marked for identification as IAWC Staff Exhibit 6.0  
20 consisting of a cover page, 45 pages of narrative  
21 testimony, Schedules 6.1 through 6.9 and titled  
22 Direct Testimony of Janice Freetly?

1           A.    Yes.

2           Q.    Do you also have before you a document  
3 marked for identification as Staff Exhibit 14.0  
4 consisting of 18 pages of narrative testimony,  
5 Schedules 14.1 through 14.2, and entitled Rebuttal  
6 Testimony of Janis Freetly?

7           A.    Yes.

8           Q.    Do you have any corrections to Staff  
9 Exhibit 6.0?

10          A.    I do.

11                       In response to the surrebuttal of  
12 company witness Rungren, I have accepted his revision  
13 to the cost of debt, so I revised Schedule 6.3 to  
14 reflect the changes that Mr. Rungren proposed.

15          Q.    Okay. And is that the only schedule you  
16 revised?

17          A.    I also revised the Schedule 14.1 that was  
18 attached to my rebuttal to reflect the 6.04 cost of  
19 debt which changes the weighted average cost of  
20 capital to 7.39.

21          Q.    And that was the change Mr. Rungren brought  
22 to your attention?

1           A.    Yes.

2           Q.    Okay.  Thank you.

3                    Do you have any corrections to Staff  
4 Exhibit 14.0?

5           A.    Just the Schedule 14.1 that I just  
6 mentioned.

7           Q.    Oh, yes, that's right.  I'm sorry.

8                    And do you have -- is the information  
9 contained in Staff Exhibits 6.0 and 14.0 true and  
10 correct to the best of your knowledge?

11          A.    Yes.

12          Q.    And if I were to ask the same questions  
13 today as set forth in Staff Exhibits 6.0 and 14.0,  
14 would your responses be the same considering the  
15 revisions we've already talked about?

16          A.    Yes.

17          MR. LANNON:  Okay.  Your Honor, I would move  
18 for admission into evidence Staff Exhibits 6.0 and  
19 14.0, pending cross if that's more appropriate, and  
20 I'll tender the witness for cross-examination.

21          JUDGE JONES:  Are you going to file those  
22 exhibits that have been modified, revised, on

1 e-Docket?

2 MR. LANNON: Yes, Your Honor.

3 JUDGE JONES: All right. Thank you.

4 And you're offering those subject to

5 cross?

6 MR. LANNON: Yes, Your Honor.

7 JUDGE JONES: So I'll hold off on any ruling,

8 but having said that, let me back up a minute.

9 Mr. Olivero offered the Ostrander

10 exhibits subject to cross. Cross is over.

11 Are there any objections to the

12 admission of the exhibits sponsored by Mr. Ostrander?

13 MR. WHITT: No objections.

14 JUDGE JONES: Let the record show there are

15 not.

16 Accordingly, the exhibits he has

17 sponsored as identified on the record and as filed on

18 the dates shown on the exhibit list are admitted into

19 the evidentiary record. One of those exhibits, as

20 noted in the record, will be superceded by a revised

21 version as identified on the record today.

22



1 (Whereupon ICC Staff Exhibits  
2 3.0, 11.0 and 16.0 were admitted  
3 into evidence at this time.)  
4 JUDGE JONES: Does that cover your exhibits?  
5 MR. OLIVERO: Yes, it does, Your Honor. Thank  
6 you.  
7 JUDGE JONES: All right. Now back to  
8 Ms. Freetly.  
9 So has Ms. Freetly been tendered for  
10 cross did you say?  
11 MR. LANNON: Yes, Your Honor.  
12 JUDGE JONES: I believe Illinois-American Water  
13 Company has some cross for the witness, is that  
14 right, Mr. Whitt?  
15 MR. WHITT: We do, Your Honor.  
16 Good evening, Ms. Freetly. We  
17 introduced ourselves earlier, but I'm Mark Whitt, and  
18 I have a few questions.  
19 CROSS-EXAMINATION  
20 BY MR. WHITT:  
21 Q. Your direct testimony, line 21.  
22 A. Yes.

1           Q.    You provide a discussion here of I guess  
2    I'll call it a theory of regulation, for lack of a  
3    better term, or a general principle about principles  
4    to consider in determining a public utility's overall  
5    cost of capital, is that right?

6           A.    Yes.

7           Q.    And you say that shareholder interests are  
8    balanced when the Commission authorizes a rate of  
9    return on rate base equal to the public utility's  
10   overall cost of capital as long as that overall cost  
11   of capital is not unnecessarily expensive.

12                   And my initial question is whether  
13   you're aware of any provision of the Public Utilities  
14   Act that uses the term unnecessarily expensive in  
15   establishing a cost recovery standard?

16           A.    Not that I'm aware of off the top of my  
17   head.

18           Q.    Okay.  Are you familiar with the term just  
19   and reasonable in the ratemaking context?

20           A.    Yes.

21           Q.    Are you generally aware of that terminology  
22   being used throughout the Public Utilities Act?

1           A.    Yes.

2           Q.    Are you also familiar with the term

3 prudent?

4           A.    Yes.

5           Q.    Is it your understanding that that term is

6 also used in the Public Utilities Act?

7           A.    I believe it is.

8           Q.    Might it be appropriate for the cost of

9 capital to be expensive as long as it's not

10 unnecessarily so?

11          A.    It could be considered expensive if the

12 utility was, you know, particularly high risk.

13          Q.    That was going to be my next question.

14                   For example, if there were unique risk

15 factors, it could justify more expensive cost of

16 capital relative to utilities with less risk,

17 correct?

18          A.    Yes.

19          Q.    And that doesn't mean that the cost of

20 capital for the riskier utility is unnecessarily

21 expensive, correct?

22          A.    Right.

1           Q.    At line 24 of your direct testimony, well,  
2    I guess the question and answer that starts at line  
3    20, you recognize in this testimony that there are  
4    potential negative consequences to an authorized  
5    return that would cause a utility's financial  
6    strength to deteriorate, correct?

7           A.    Yes.

8           Q.    And you also acknowledge that as the  
9    reliance on debt financing increases, the probability  
10   of default for the utility increases as well,  
11   correct?

12          A.    Yes.

13          Q.    And as the probability of default  
14   increases, an investor's perception of risk will also  
15   increase, will it not?

16          A.    Yes.

17          Q.    And it's true, isn't it, that a increased  
18   perception of risk leads to an increased cost of  
19   capital?

20          A.    That's true generally.

21          Q.    Okay.  At line 138 of your direct you  
22   provide the company's forecasted capital structure?

1           A.    Yes.

2           Q.    And the forecast is comprised of 48.68  
3   percent long-term debt and 50.02 percent common  
4   equity, is that right?

5           A.    Yes.

6           Q.    And that's the capital structure that will  
7   actually finance Illinois-American's rate base,  
8   correct?

9           A.    Well, that's the company's proposal of the  
10   capital structure that it intends to use.

11          Q.    Well, there is an actual capital structure  
12   that could be used, and then the Commission could  
13   decide to impute a capital structure, correct?

14          A.    Correct.

15          Q.    But in terms of the capital structure that  
16   actually exists, it's the actual structure that  
17   finances rate base, correct?

18          A.    That's correct.

19          Q.    And at line 162, this is where you indicate  
20   your proposal to impute a capital structure  
21   containing 56.7 percent long-term debt and 42 percent  
22   common equity, correct?

1           A.    Yes.

2           Q.    Is it your recommendation that the company  
3    should make efforts to achieve this capital  
4    structure?

5           MR. LANNON:  I'm sorry.  I just need a  
6    clarification.

7                   Are you leaving off short-term debt  
8    for a reason when you talk about what the company has  
9    forecasted?

10          MR. WHITT:  For brevity really.  I'm just  
11    talking sort of generalities.

12          MR. LANNON:  That's fine.

13          Q.    BY MR. WHITT:  And I guess, well, so we  
14    have a clear record, at line 162, you say, "I propose  
15    using an imputed capital structure that contains 1.3  
16    percent short-term debt, 56.7 percent long-term debt,  
17    and 42 percent common equity," correct?

18          A.    Correct.

19          Q.    And the question is, is it your  
20    recommendation that since this is the capital  
21    structure that should be used for ratemaking purposes  
22    that the company should undertake efforts to align

1     its actual capital structure with your  
2     recommendation?

3             A.   Well, I believe that that capital structure  
4     would be adequate for the company, so, yes, that's my  
5     suggestion as their capital structure.

6             Q.   And would you have any recommendations of  
7     how the company might go about doing that?

8             A.   My testimony is really more limited to that  
9     that's the capital structure for ratemaking purposes  
10    that should be adopted in this proceeding.

11            Q.   Well, did you attempt by that answer to  
12    change your prior answer when I asked whether the  
13    company should take efforts so its actual capital  
14    structure lines up with your ratemaking  
15    recommendation?

16            A.   I guess that is my answer, yes, that my  
17    recommendation is limited to what should be used for  
18    ratemaking purposes.

19            Q.   Okay. And at line 143 of your direct, you  
20    indicate that you're not recommending the company's  
21    actual capital structure because you say, quote,  
22    "Using this equity ratio could produce a rate of

1 return that would violate Section 9-230 of the Act."

2 That's your testimony, correct?

3 A. That's correct.

4 Q. And you say could but you don't say would,  
5 right?

6 A. Right.

7 Q. And you did not calculate a rate of return  
8 for the company or a cost of equity based on  
9 Illinois-American's actual capital structure,  
10 correct?

11 A. My cost of equity was produced using -- in  
12 my rebuttal testimony, I did provide an analysis  
13 using the imputed capital structure that I was  
14 suggesting.

15 Q. Right, but you didn't do an analysis where  
16 you looked at Illinois-American's actual capital  
17 structure and prepared those results to the cost of  
18 equity with the imputed capital structure, correct?

19 A. Correct.

20 Q. And would you agree that if a 9.24 percent  
21 ROE is applied to a capital structure comprised of 40  
22 percent equity that as a matter of mathematics, the



1 overall cost of capital would be lower than if that  
2 same ROE was applied to a capital structure with 50  
3 percent equity?

4 A. Yes.

5 Q. And so you knew without having to do any  
6 calculation that your imputed capital structure would  
7 produce a lower cost of equity recommendation,  
8 correct?

9 A. Yes.

10 Q. Now, line 146 of your testimony, you  
11 discuss an appellate court case that addressed the  
12 possibility of a parent company manipulating its  
13 affiliate's capital structure, is that right?

14 A. Yes.

15 Q. Now, are you suggesting that the mere fact  
16 that a subsidiary has more equity in its capital  
17 structure than its parent is evidence that the parent  
18 is, in fact, manipulating its subsidiary's capital  
19 structure?

20 A. No. It's one way a parent company could  
21 manipulate the capital structure of the utility.

22 Q. Have you come across any evidence or

1 information in this proceeding that American Water  
2 Works is manipulating the capital structure of  
3 Illinois-American?

4 A. Well, given the difference between the  
5 equity ratio of the parent company and the utility,  
6 Section 9-230 requires that it be established that  
7 there is no manipulation going on, and that was not  
8 established by the company.

9 Q. So you're saying that there is a  
10 presumption of manipulation any time a parent  
11 company's capital structure has less equity than a  
12 subsidiary?

13 A. Yes. It's something to investigate.

14 Q. Did you do that?

15 A. Yes. That's why I produced the 42 percent  
16 equity ratio.

17 Q. What did you do to investigate whether  
18 there was any manipulation?

19 A. Well, I didn't establish that there was  
20 manipulation. I asked the company to demonstrate why  
21 the utility needed a higher equity ratio than the  
22 parent, and they did not do that, so that's my

1 position.

2 Q. Okay. Can you go to line 155, please, in  
3 your direct?

4 A. Yes.

5 Q. And here's where you talk about the  
6 evidence you wanted to see and you didn't see, and  
7 you say, "Although IAWC states that the company's  
8 operating risk profile is significantly different  
9 than the risk profile of AWW, it provided no  
10 quantitative evidence to support that assertion."

11 And then you say, "The company needs  
12 to provide an analysis demonstrating that IAWC has  
13 higher risk than AWW to justify the higher common  
14 equity ratio for the utility."

15 And the first thing I wanted to clear  
16 up is that in the first sentence I just read, you  
17 used the term operating risk, correct?

18 A. Yes.

19 Q. And were you referring to operating risk in  
20 the second sentence as well?

21 A. Yes.

22 Q. Okay. Now, it's true, is it not, that

1 Illinois-American faces the operating risks of a  
2 water utility, correct?

3 A. Yes.

4 Q. And these risks could include things like  
5 wet summers or unforeseen maintenance expense, spikes  
6 in power, chemical costs and things of that nature?

7 A. Yes.

8 Q. And these operating risks are unique to  
9 Illinois. In other words, each of the American Water  
10 utilities could and likely do have some different or  
11 unique level of risk for that jurisdiction. Would  
12 that be fair?

13 A. Possibly.

14 Q. Any reason to believe that isn't the case?

15 A. No.

16 Q. If Illinois-American were the only  
17 subsidiary of American Water, then the operating risk  
18 profiles of the utility and the parent would  
19 essentially be identical, wouldn't they?

20 A. Yes, if it was the only subsidiary.

21 Q. And I think we've established that it would  
22 be a reasonable assumption that some American Water

1     utilities face greater operating risks than Illinois  
2     and some may be less, correct?

3             A.    Yes.

4             Q.    And so the parent company's operating risk  
5     reflects the combined level of risk of all of its  
6     subsidiaries, is that right?

7             A.    Yes.

8             Q.    And if one subsidiary goes bankrupt, the  
9     parent's overall loss is mitigated as long as the  
10    other subsidiaries are financially viable, correct?

11            A.    Yes.

12            Q.    And in that respect, owning multiple  
13    subsidiaries is a form of diversification that allows  
14    American Water Works to hedge its operating risk,  
15    correct?

16            A.    Yes.

17            Q.    And Illinois-American can't diversify in  
18    the same way its parent can; true?

19            A.    True.

20            Q.    Illinois-American bears a hundred percent  
21    of whatever its operating risk is, correct?

22            A.    Yes.

1           Q.    And to the extent the parent capital  
2   structure is imputed to Illinois-American, the  
3   operating risk that the parent company bears is also  
4   being imputed, correct?

5           A.    Yes.

6           Q.    And the operating risk that is being  
7   imputed to Illinois-American is less than the  
8   operating risk that Illinois-American would face as a  
9   stand-alone entity because it can't diversify like  
10  the parent does, correct?

11          A.    Could you restate that?  I'm sorry.

12          MR. WHITT:  Could you read that back?

13                               (The reporter read back the last  
14                               question.)

15          A.    Well, because it's part of the parent  
16   company structure, according to the rating agencies,  
17   it does reflect the operating risk of a parent.

18          Q.    But the point being, the parent's operating  
19   risk is lower than the operating risk  
20   Illinois-American faces as a stand-alone entity.

21          A.    I suppose so.

22          Q.    Now, financial risk is a different kind of

1 risk, isn't it?

2 A. Yes.

3 Q. And is it the case that financial risk is  
4 largely a function of the capital structure?

5 A. Yes.

6 Q. And as you've explained in your testimony,  
7 a higher level of debt generally is perceived as  
8 increasing financial risk, correct?

9 A. Yes.

10 Q. Is it reasonable to conclude that American  
11 Water Works capital structure reflects a greater  
12 level of financial risk than Illinois-American's  
13 stand-alone capital structure?

14 A. So your question was whether American  
15 Water's capital structure reflected less financial  
16 risk than that of Illinois-American?

17 Q. Right.

18 A. Than that of the company's proposed capital  
19 structure of Illinois-American?

20 Q. Let's back up and make sure we're on the  
21 same page here.

22 The debt in the parent company's

1 capital structure is approximately 57 percent,  
2 correct?

3 A. Yes.

4 Q. And the debt in Illinois-American's capital  
5 structure is approximately 49 percent, correct?

6 A. Yes.

7 Q. So by imputing the parent company capital  
8 structure to Illinois-American, the effect of that is  
9 to impute a capital structure that reflects more  
10 risk, correct?

11 A. Yes.

12 Q. Now, you understand that Illinois-American  
13 can issue its own debt, correct?

14 A. They can.

15 Q. And that it, in fact, has done so in the  
16 past when it's been able to accomplish financing more  
17 cheaply than it could through American Water Capital  
18 Corporation, correct?

19 A. Yes.

20 Q. And if the American Water Works -- if the  
21 risk to a parent company increases, Illinois-American  
22 still has the option of issuing its own debt to the



1 extent its risk is lower and its financing cost would  
2 be lower, correct?

3 A. Yes, it has that option.

4 Q. And it has that option by virtue of its  
5 affiliation with the holding company, correct?

6 A. Yes.

7 Q. And would you agree then that  
8 Illinois-American's affiliation with the parent  
9 company is a benefit insofar as it mitigates the  
10 effect of financial risk that Illinois-American would  
11 have as a stand-alone entity?

12 A. Yes.

13 MR. WHITT: I have no further questions.

14 JUDGE JONES: Does anyone else have cross of  
15 this witness?

16 MR. LANNON: Your Honor, could we take a  
17 five-minute break, and we'll do some short redirect  
18 and go home.

19 JUDGE JONES: Five minutes?

20 MR. LANNON: Yes.

21 JUDGE JONES: Any objection?

22 We'll break for five minutes.

1 (Recess taken.)

2 JUDGE JONES: Back on the record.

3 Does the staff have any redirect?

4 MR. LANNON: Short redirect, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. LANNON:

7 Q. Ms. Freetly, do you recall Mr. Whitt asking

8 you about relative risk between AWW and IAWC based on

9 the fact that one was diversified and the other

10 wasn't? Do you recall that?

11 A. Yes.

12 Q. Can you tell me, is diversifiable risk

13 reflected in the investor's required rate of return?

14 A. No.

15 MR. LANNON: Thank you. No further redirect.

16 MR. WHITT: No recross, Your Honor.

17 JUDGE JONES: All right. Thank you,

18 Ms. Freetly. Your examination is concluded.

19 (Witness excused.)

20 JUDGE JONES: Off the record regarding things

21 like tomorrow's schedule.

22

1                               (Whereupon an off-the-record  
2                               discussion transpired at this  
3                               time.)

4               JUDGE JONES:   Back on the record.

5                               Let the record show there was a short  
6       off-the-record discussion regarding the schedule for  
7       tomorrow, and I think that's been worked out.

8                               Anything anybody want to say about any  
9       of the specifics of what that entails?

10               MR. LANNON:   I think from my perspective, we  
11       can table some of those issues for now at least.  
12       Maybe we can resolve something.

13               JUDGE JONES:   Anybody else?

14                               All right.   Let the record show that  
15       today's hearing is concluded, and we will continue  
16       the case and resume tomorrow morning at 9 o'clock.

17                               (Whereupon the hearing was  
18                               continued to May 17, 2012 at  
19                               9:00 a.m.)

20  
21  
22